

# *Restorative Justice and Community Conferencing: Summary of Findings from a Pilot Study*

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## **Introduction**

Empirical research in juvenile justice has not kept up with the current momentum of 'restorative justice' reforms. While there seems to be growing support for the restorative notion of various initiatives like victim-offender mediation and conferencing, there has been relatively little systematic research on the effectiveness of such initiatives. Recognising the need for systematic evaluation of these types of initiatives, the Queensland Department of Justice commissioned an evaluation of its 'community conferencing' pilot program.<sup>1</sup>

The pilot program was established in three Queensland jurisdictions: Palm Island (off the coast of Townsville), Ipswich (west of Brisbane) and Logan (south of Brisbane) on 1 April 1997. The Department routinely collected data from conference participants related to issues regarding the effectiveness of conference administration, service delivery and program outcomes. A systematic evaluation of the Queensland conferencing initiative took place from March to June 1998 (see Hayes & Prenzler 1998). The evaluation research was based in part on survey data collected from program participants. Additional data included interviews conducted with program stakeholders, cautioning and arrest data, and data on court appearances.

This paper reports on selected aspects of the evaluation: primarily the perceptions and experiences of program participants. First, a summary of the literature on restorative justice is provided, highlighting the theoretical underpinnings of various alternative responses to crime that have developed internationally. Next, the paper reviews illustrative programs overseas and in Australia and emphasises the dearth of sound empirical evidence currently available regarding the effects of various restorative initiatives. Finally, the paper summarises the results of surveys collected from conference participants in the Queensland pilot. Data on conference outcomes are included here, along with preliminary findings of re-offending. The study focuses on the personal experiences of community conferencing which

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1 Since the completion of this evaluation responsibility for the Queensland community conferencing program has been moved to the Department of Families, Youth and Community Care.

demonstrate the success of the program along one of several program criteria. The paper also discusses several tentative conclusions drawn from analyses of cautioning, arrest and court appearance data.

## Theoretical background

The theoretical basis for the relatively recent revival of 'negotiated justice' (Galaway & Hudson 1996:137-207) has been located primarily in notions of 'restorative justice' (Van Ness 1990) and 'reintegrative shaming' (Braithwaite 1989). Highly cohesive societies are said to be marked by low crime rates due to substantial use of child rearing practices in which young people who violate social norms, as part of the experimental and rebellious processes of development, are 'shamed' and then 'reintegrated' into families and communities. In this process young 'offenders' are made powerfully aware of the disapproval of their actions by significant others in their lives. Re-acceptance and affirmation of the children's value in the community overcome the potentially alienating and stigmatising effects of exclusive shaming.

As children grow older and when offending becomes more serious the process becomes more formalised and involves wider community representation especially from authority figures such as elders. In some societies the state may play an important mediating role which is authoritative although not formalised. In Japan, for example, the use of shaming and reintegration is widespread, but 'victims do not assume the role of adversary or prosecutor, nor are they able to use the formal (criminal justice) processes vindictively for revenge. Ultimately, they must defer to the authorities' decision' (Haley 1996:360). While traditional forms of 'conferencing' can involve punishments such as the infliction of physical pain and temporary banishment, the focus is on the restoration of social relations through apology and restitution.

This approach can be contrasted with 'state-centred' justice systems in Western countries with low social cohesion and high crime rates (Van Ness 1990:7). These countries have adversarial justice systems where victims, offenders and community members have very little input; where court procedures are focused on evidentiary considerations of guilt or innocence; and where punishments are allocated on an impersonal basis (Morris & Maxwell 1994). Many researchers have noted the potentially counter-productive outcomes of this process, summed up in Haley's (1996:365) review in the Japanese context: 'Recidivism rates decrease in correspondence with the early diversion of offenders and their restoration to the community. Those who serve prison terms are more likely to become repeat offenders'. The most common explanation for the criminogenic effect of incarceration is that the young offender self-identifies with the label of 'criminal' and this is reinforced by discrimination from community members (Ray & Downs 1986; Klein 1986; Wellford & Triplett 1993; Triplett & Jarjoura 1994). Incarceration also exposes offenders to the intensive influence of criminal peers; separates them from positive role models; and retards their development of school, work and social skills. The opportunity to learn about the effects of offending behaviour on others is denied, as is the opportunity to make a more personalised form of reparation (Van Ness 1990).

Victims also are alienated from the state-centred justice system. They have no forum in which to express their hurt and outrage. There is rarely consultation as to whether or not they are satisfied with the punishment administered by the courts. The victim, by proxy, becomes the state, and the highly personal experience of victimisation is abstracted and institutionalised. The state assumes a retributive requirement for the victim despite surveys which show victims are less interested in punishment (such as imprisonment or fines) than

restitution, apology, offender rehabilitation and the capacity to be involved in the justice system's dispensation of their case. Victims also have pressing questions about why they were chosen or the motivations of the offender which are important to the victim's sense of safety and integrity (Murray 1991; Van Dijk et al. 1991; Van Ness 1990; Umbreit 1990; Walker & Dagger 1993).

Advocates of restorative justice suggest a range of positive outcomes should criminal justice processes be augmented or replaced by forms of diversionary conferencing. Offenders should appreciate the opportunity to make amends and be restored to the community. Conferences challenge the defensive excuse-making and 'moral neutralisation' strategies adopted by many offenders. Recidivism should be lowered as offenders recognise the damage done, develop empathy and seek to live by conventional standards of behaviour. Victims should also derive a greater sense of justice and empowerment from receiving an apology, or having a say in the form of punishment or restitution adopted (Daly 1996). Victims may also value understanding something of the background to the offences and value contributing to the offender's restoration. They should feel less aggrieved and more secure.

Conferencing is often considered to be particularly well-suited for young offenders. Diversion from the courts to conferences may prevent the labelling effect of justice system procedures and allow for early intervention in a possible criminal career. The fact that adolescents are still developing suggests that they may be more responsive to conferencing. Outcomes such as apologies, restitution or community service are more likely to win community support. However, victim sensibilities in the case of serious offences may render conferencing inappropriate (Morris & Maxwell 1993).

Critics of conferencing point to a variety of dangers and possible unintended outcomes (see Alder & Wundersitz 1994; Maxwell & Morris 1996; Minor & Morrison 1996; O'Connor 1997; Wundersitz 1997). There is the potential for victims to be 're-victimised' during conferences and emerge more traumatised or fearful than before, especially if they are faced by an unrepentant and belligerent respondent. Concerns also have been raised about legal protections under conferencing models. Young people in particular may admit to offences in the belief they will receive less restrictive outcomes or because they are not fully informed of their rights. They may in fact end up receiving excessive punishments at the hands of vengeful victims. A major justification of the adversarial system is the protection it provides against police intimidation of suspects or fabrication of evidence, and the accountability it provides through forms of appeal and controls on sentencing.

Some of the criticisms of conferencing relate to structural issues. Conferences individualise crime and do not address the social causes of crime. Conferencing programs are class biased, with both police referral practices and the conference process itself favouring middle class, articulate participants. Aboriginal and marginalised youth are the least likely to benefit from the process. Conference programs may also contribute to net-widening, with young offenders who would have previously been cautioned now proceeding to conference, which is generally a much more intensive intervention.

## **Evaluating outcomes: overseas and domestic programs**

International reviews of a variety of victim-offender mediation programs have generally shown very positive results (Galaway & Hudson 1990; Galaway & Hudson 1996). Properly implemented programs using specialist mediators and pre-conference preparation usually result in agreements between parties in upwards of 90% of cases (Coates 1990), and similar rates for fulfillment of agreements. The majority of victims and offenders typically express

strong satisfaction with the process and outcome. More than 90% of victims and offenders in some programs have expressed satisfaction with conference processes while control groups of non-mediated cases have shown significantly less satisfaction (Umbreit 1996, 1998). Tests on offender perceptions about voluntary participation and fairness have also shown very positive results.

Probably the most desired, yet least understood, outcome of community conferencing is its potential effect on future offending. One practitioner working in the conferencing area has stated that, 'The most frequently asked question by criminal justice agency personnel is "does mediation help to stop offenders re-offending?"' (Wynne 1996:458). Surprisingly, very few evaluations even mention the issue. Others address it but with limited experimental controls. For example, Wynne's study in Leeds (UK) found reconviction rates were lower for offenders who experienced mediation. It was found that 25% were re-convicted after one year, which rose to 32% after two years. A subsequent study of a second cohort found a 22% reconviction rate after one year, and 42% after two years. These results appear disappointing but are better compared to similar groups of incarcerated offenders, 70% of whom re-offended after two years. One should note, however, that there were no matched samples in Wynne's study.

The most promising study to-date (Nugent & Paddock 1995; see also Umbreit 1998) using a matched sample (on type of offence and admission of guilt) found that young people who participated in a victim-offender reconciliation program (VORP) were significantly less likely to re-offend. Furthermore, for those who did re-offend, their behaviour was less severe than those assigned to a traditional criminal justice process. However, participants were only tracked for one year.

Where lower recidivism rates have been reported under controlled conditions, there is a question about how far the results can be extrapolated to the whole offender population because of the voluntary nature of participation in most cases (Wynne 1996). One of the better studies on recidivism concerned a program in Vermont (USA) which involved victim input into restitution negotiations. A large number of cases included apologies but not in a full conference process. The focus was on diversion through restitution. Comparisons with a matched group of offenders sent to court showed a significantly lower incidence and lower severity of subsequent offending in the diverted group (Rowley 1990; also Schneider 1986).

Many writers on restorative justice emphasise that reducing recidivism is only one goal of many and the one least likely to show benefits because of the limited capacity of the justice system to affect causative social factors (e.g., Wundersitz 1996:198). The positive achievement experienced by young people through restitution appears to be a critical factor in reducing re-offending. Completion of a program is also an important outcome which has been shown to be higher for restitution programs compared to court-based programs of partial incarceration and/or probation (Ervin & Schneider 1990; Umbreit 1998; Schiff 1988).

Empirical research on conferencing in Australasia is scarce and either inconclusive or not strongly supportive of expectations (see O'Connor 1997; Wundersitz 1997). An evaluation of family group conferencing in New Zealand (Morris & Maxwell 1993) found that active participation by young people in the conferences was low, only about half the conferences included victims or their representatives, only half of the victims felt satisfied and a third felt worse. Furthermore, professionals dominated the process by placing questionable pressure on young people to plead guilty, and the lack of welfare support meant there was more shaming and restitution than reintegration. No data on re-offending were published. On a more positive note, about two-thirds of young people's family members felt involved in the process, and agreements were reached in 95% of cases.

Australian trials with conferencing began in Wagga Wagga, New South Wales, in 1991 (Moore 1996). The 'Wagga model' was primarily a police operation. In 1993 Western Australia developed the 'family meeting' which was coordinated and conducted by 'juvenile justice teams' (Hakiaha 1994). The first legislatively mandated conferencing program began in South Australia in early 1994. Operating across the state, the South Australian model most closely resembles the New Zealand family conference (Wundersitz 1996). A Youth Justice Coordinator is responsible for organising conferences referred from police and the courts. Effective evaluation in the Wagga Wagga and South Australian programs was complicated by the simultaneous introduction of formalised police cautioning.

In New Zealand, conferences have been organised through a Youth Justice Coordinator located in the Department of Social Welfare (Morris & Maxwell 1993). Victoria has used a private community service group (Markiewicz 1997). In South Australia, conferencing is based in the Courts Administration Authority (Wundersitz 1996). Conferencing in NSW has shifted from a police base to the Office of Juvenile Justice. In Western Australia, Juvenile Justice Teams operate from the Department of Justice (Palk 1997).

### Queensland's Juvenile Justice Legislation

In 1993 Queensland introduced the *Juvenile Justice Act 1992*. The new Act was designed to formalise processes, such as police cautioning of offenders, which previously had occurred on an informal basis. It also introduced greater protections for juveniles suspected of crime, including the requirement that an independent person be present during police interviews. The Act extended the range of sentencing options to include innovations such as community service, and emphasised the importance of diversion from the courts and of imprisonment as a last resort (DFSAIA 1992).

Amendments were made to the Act in 1996 that included the option of community conferencing between victims and offenders. The amended legislation gives police discretion to administer a caution, refer a matter to a community conference or proceed to trial. Courts may also refer matters to a conference. The legislation authorises 'community conference convenors' to conduct conferences. Participants normally include 'the child' and their legal practitioner, family member or other person nominated by the child; the victim or a representative; the referring police officer; and the convenor.

The conference proceeds through discussion of the offence to 'an agreement made on what must be done because of the offence' (S.18.(3)(c)). Agreements may include apologies, restitution through voluntary work or financial compensation, or a promise regarding future conduct. Agreements may not exceed penalties applying in the courts. Compliance must be monitored and police have wide discretionary authority regarding action to be taken over non-compliance or non-participation in a police-referred conference. The officer may take no action, administer a caution, refer the matter to another conference or proceed in a court.

Preconditions of a conference include the child's admission of guilt for the offence and victim consent. The police may only refer matters which they would otherwise have dealt with through court. (Conferencing should not impact police cautioning practices.) Conference convenors have wide discretion in determining the suitability of proceeding with a conference referral. Complex provisions relate to confidentiality about conferences and disclosure of agreements.

## Data and methods

### *Southeast Queensland pilot programs*

The Department of Justice established pilot programs in three Queensland jurisdictions: Palm Island (off the coast of Townsville), Ipswich (about 45 kilometres west of Brisbane) and Logan (approximately 35 kilometres south of Brisbane). One purpose of the evaluation was to render cross-site comparisons of various modes of program delivery. Because the conferencing program conducted at Palm Island adopted a less structured format,<sup>2</sup> this site was omitted from quantitative analyses of client satisfaction. Instead, the Palm Island program was assessed via on site inspection and comprehensive interviews with program staff (see DOJ 1998a; Hayes & Prenzler 1998). While the format for conferencing adopted by the Community Justice Group is markedly different from that of the two southeast Queensland pilots, there is some evidence that the Group's activities have had an impact on the level of crime on the Island.

Ipswich is a satellite city of Brisbane with a strong working class base associated with a history of mining in the area. However, employment has declined in recent years. The Alternative Dispute Resolution (ADR) Branch of the Department of Justice administers the Ipswich pilot program. It was therefore an 'in-house' program of the Department, although separate to the Juvenile Justice Branch (which at the time coordinated the Queensland conferencing pilot). The ADR Branch is the government operated mediation service. In this pilot, mediators from the ADR panel, who had been given specific training in conferencing, were used as conference convenors. A coordinator from the ADR Branch arranged the conference and conducted pre-conference preparation for participants.

Logan is a rapidly growing area on the south side of Brisbane. For many decades its diverse population has included a large public housing sector. The Logan pilot was outsourced through open tender to a community organisation, Youth and Family Services (Logan City) Inc (YFS). The purpose of this pilot was to evaluate the feasibility of providing conferencing services through a non-government organisation. Under this model, the Service arranges conferences and conducts pre-conference preparation. Conferences are jointly convened by a case worker and another convenor from a panel of trained convenors from the community.

Both the Ipswich and Logan agencies conduct face-to-face pre-conference preparation with all participants. This is an intensive process involving familiarisation with the case; and interviews with victims and their supporters, and young people and their caregivers. Liaison with police is also routine. Efforts are made to match the convenors to the requirements of the participants - in regard to issues of gender or ethnicity for example. All conferences involve two convenors. Coordinators and convenors are active in community education about conferencing and in liaison with criminal justice personnel.

### *Data sources*

Data for this paper was derived from surveys conducted by the Juvenile Justice Branch of the Queensland Department of Justice (the Department). The results reported here are based on a re-analysis of these primary data. Data collection protocols established by the Department were quantitative in nature with survey respondents (i.e., young offenders, victims and supporters) providing answers to a list of closed-ended questions. These structured surveys

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2 Members of the Community Justice Group conduct community conferences on Palm Island. Local Indigenous Persons drawn from among the Island's respected persons and elders make up the Group's membership. Conferences vary substantially in composition and duration.

covered a range of issues related to the objectives of community conferences, including satisfaction with conference outcomes, satisfaction with conference agreements, offender reparation, offender accountability, offender reintegration, and victim contributions to the justice process.

The initial survey was conducted with conference participants immediately following each conference. Questionnaires were self-administered simultaneously to all conference participants upon conference termination. Four hundred and fifty-four (454) conference participants were surveyed from 1 April, 1997 to 29 May, 1998. During this time a total of 76 conferences were completed across the two sites (40 in the Ipswich site; 36 in the Logan site). Initial survey data were obtained from a total of 116 young people, 149 parents/caregivers, 90 victims, 63 victim supporters and 36 police.

Approximately two to four months following a conference, an employee of the Department of Justice attempted to contact all conference participants (i.e., young offenders, parents and victims) to seek their voluntary cooperation in a follow-up interview. The follow-up survey designed by the Department was used to obtain more detailed information from participants regarding their perceptions of the conference intake process, perceived fairness of conference aspects, satisfaction with conference outcomes, opinions about offender responsibility and family responsibility, self- and other-reports of offender recidivism, and perceived community reintegration. The follow-up interview was usually administered to participants over the telephone. Interviews lasted between five and ten minutes; however, some ran for much longer depending on how much detail participants wanted to give to four open-ended items (see Hayes & Prenzler 1998 for a discussion of the open-ended responses to the follow-up survey).

Between 1 April, 1997 and 29 May, 1998, a total of 294 follow-up interviews were scheduled. Of these 204 were completed. The remaining 90 participants scheduled for follow-up could not be located, never returned phone messages, or declined to participate. Of the 204 participants completing a follow-up interview, 54 (26.5%) were young people, 64 (31.4%) were victims, and 86 (42.2%) were parents/caregivers. Fifty-eight percent were male; 42.2% were female.

## Results

### *Initial survey results*

Initial survey data were reanalysed to determine levels of overall satisfaction with community conferencing, as well as how levels of satisfaction differ across respondent roles (i.e., young person, parent/caregiver, victim). Because very few statistically significant differences were observed between the Ipswich and Logan pilot programs, results from both pilots were aggregated and presented together. The lack of difference in observed program outcomes across the two SE Queensland sites was attributed to the similar mode of program administration ultimately adopted by both sites.

Looking at all respondents, levels of satisfaction with community conferences were extremely high. Of particular interest were the responses to the following two questions: 'Overall, I thought that the conference was fair' and 'I was satisfied with the agreement made in the conference.' Of the entire sample, 98.5% reported that they believed the conference was 'fair',<sup>3</sup> and 98.5% reported that they were satisfied with agreements made during the conference.

To determine how levels of satisfaction or degrees of perceived fairness varied across respondent roles, the entire group was divided into the following three sub-groups: young person, parent/caregiver, and victim. Responses to these two questions were then cross-classified with respondent role to determine if associations existed between respondent role and levels of satisfaction and fairness. No significant associations were found between respondent role and levels of satisfaction and perceived fairness. In fact, between 98% and 100% of all respondents felt their conference was 'fair' (see Table 1 below). Similarly, between 97.5% and 99% of all respondents were satisfied with conference agreements (Table 2).

**Table 1: Levels of perceived fairness with conference by respondent role.\***

<b>Item: Overall, I thought that the conference was fair.</b>	<b>Young person N=113</b>	<b>Victim N=90</b>	<b>Parent/caregiver N=148</b>
Agree	111 (98.2%)	88 (97.8%)	148 (100%)
Disagree	2 (1.8%)	2 (2.2%)	0

\* $\chi^2$  test not conducted, as 3 (50%) cells have expected cell frequencies less than 5.

**Table 2: Levels of satisfaction with conference agreements by respondent role.\***

<b>Item: I was satisfied with the agreement made in the conference.</b>	<b>Young person N=113</b>	<b>Victim N=90</b>	<b>Parent/caregiver N=148</b>
Agree	112 (99.1%)	87 (96.7%)	146 (98.6%)
Disagree	1 (0.9%)	3 (3.3%)	2 (1.4%)

\* $\chi^2$  test not conducted, as 3 (50%) cells have expected cell frequencies less than 5.

Looking at the remaining questions asked during the initial survey, the responses by the very large majority of respondents were extremely positive. Levels of agreement ranged from 88.1% for 'I had a good idea what the conference would be like' to 99.1% for 'I was treated with respect in the conference' and 'Overall, I thought the conference was fair'. (see Table 3 below).

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3 Response options for these and other questions in the initial survey instrument were: "Agree a lot", "Agree a little", "Disagree a little", "Disagree a lot". These four response options were collapsed into the two categories "Agree" and "Disagree".

**Table 3: Percent affirmative for Initial Survey Items**

Questionnaire Item	Percent agreeing
I was not pushed into being at the conference.	96.5
I had a good idea what the conference would be like before I came.	88.1
I understood what was going on in the conference.	99.1
There were people at the conference who supported me.	98.4
I was treated with respect in the conference.	99.3
I was NOT pushed into things in the conference.	97.8
Everyone at the conference seemed to want to work things out.	98.2
After hearing everyone talk I see things differently now.	98.2
I got to have my say at the conference.	98.9
People seemed to understand my side of things.	99.1
The conference was just what I needed to sort things out.	95.8
Doing the conference means I can now make a fresh start.	95.3
If I had a friend in the same position as me I would tell them to go to a conference.	98.8

Looking across respondent groups, percentages agreeing to most of these items were not substantially different. However, chi-square tests were obviated in all but two comparisons, as more than 20% of table cells had expected frequencies below 5. Thus, all parties shared similar perceptions about the content and quality of community conferences. Nevertheless, some significant differences were identified.

A significant difference was noted between respondent groups related to levels of agreement to the following statement: ‘The conference was just what I needed to sort things out.’ Between 95% and 99% of young people and parents/caregivers agreed to this item. A slightly lower percentage of victims agreed (91.9%). However, this difference was significant ( $\chi^2=7.53$ ,  $df=2$ ,  $p<0.05$ ; see Table 4 below). One interpretation may be that, for some victims, a conference does not provide an immediate resolution to the physical and/or emotional effects of victimisation. Young people, on the other hand (with 99% agreeing to this item) may feel that the event is truly ‘in the past’, confident in the knowledge that once agreements are fulfilled, the matter is closed.

**Table 4: Levels of Item Agreement by Respondent Group**

Item: ‘The conference was just what I needed to sort things out.’	Young people N=113	Victims N=88	Parents/ caregivers N=142
AGREE	112 (99.1%)	80 (90.9%)	135 (95.1%)
DISAGREE	1 (0.9%)	8 (9.1%)	7 (4.9%)

$\chi^2=7.53$ ,  $df=2$ ,  $p<0.05$ .

A significant difference also was noted in levels of agreement to the item ‘Doing the conference means I can now make a fresh start.’ Again, it was victims who had the highest level of disagreement (11.7%) compared to other respondent groups, with levels of agreement ranging from 95% for parents/caregivers to 100% for young people ( $\chi^2=13.88$ ,  $df=2$ ,  $p<0.05$ ; see Table 5 below). These results perhaps can be interpreted similarly with those above – i.e., that some victims are less confident about outcomes immediately following a conference.

**Table 5: Levels of Item Agreement by Respondent Group**

Item: ‘Doing the conference means I can make a fresh start.’	Young people N=113	Victims N=77	Parents/ caregivers N=127
AGREE	113 (100%)	68 (88.3%)	121 (95.3%)
DISAGREE	0	9 (11.7%)	6 (4.7%)

$\chi^2=13.88$ ,  $df=2$ ,  $p<0.05$

**Follow-up interviews**

First, responses to questions posed in both the initial and follow-up surveys were compared. Respondents to both surveys were asked about their perception of fairness regarding the conference, their level of satisfaction regarding conference outcomes and whether they would recommend conferencing to others in similar circumstances. Responses to these survey items were compared for all participants and again separately by respondent role (see Tables 6-8).<sup>4</sup> Chi-square tests were obviated for tables 6-8 because initial and follow-up respondent groups were completely separate. That is, responses to initial survey questions could not be linked to responses to follow-up questions. Therefore, only overall trends are compared here.

**Table 6: Perceived fairness of conferences across initial and follow-up groups.**

	Initial N=455	Follow-up N=202
Agree or Yes	448 (98.5%)	197 (97.5%)
Disagree or No	7 (1.5%)	5 (2.5%)

Initial survey item: ‘Overall, I thought that the conference was fair.’

Follow-up survey item: ‘Overall, was the conference fair?’

4 Likert response options to follow-up items were “Yes, very much”, “Yes, a little”, “No, not really”, “No, not at all”. The two “Yes” and “No” categories were collapsed to dichotomise the responses and facilitate interpretation of various cross-classifications.

**Table 7: Levels of satisfaction with conference agreements across initial and follow-up groups.**

	<b>Initial N=456</b>	<b>Follow-up (Item A) N=204</b>	<b>Follow-up (Item B) N=202</b>
Agree or Yes	447 (98.0%)	195 (95.6%)	196 (97.0%)
Disagree or No	9 (1.9%)	9 (4.4%)	6 (3.0%)

Initial survey item: 'I as satisfied with the agreement made in the conference.'

Follow-up survey item (A): 'At the time of the conference were you satisfied with the agreement that was made?'

Follow-up survey item (B): 'Are you happy with how the agreement has worked out for you?'

**Table 8: Willingness to refer conferencing to others across initial and follow-up groups.**

	<b>Initial N=430</b>	<b>Follow-up N=200</b>
Agree or Yes	425 (98.8%)	197 (98.5%)
Disagree or No	5 (1.2%)	3 (1.5%)

Initial survey item: 'If I had a friend in the same position as me I would tell them to go to a conference.'

Follow survey item: 'If you had a friend in the same position as you would you tell them to go to a conference?'

Responses to these items remained stable during the follow-up period (mean follow-up length was 3.4 months or 13.6 weeks). While there appears to be a shift to the negative for all items, the change is very slight. For example, negative perceptions of conference fairness shifted from 1.5% immediately following the conference to 2.5% from two to four months following the conference (Table 6). The proportion of negative responses regarding satisfaction with conference outcomes shifted from 1.9% at the initial survey to 4.4% at follow-up for Item A to 3.0% at follow-up for Item B (Table 7). It should be noted, however, that an overwhelming majority of respondents continued to support the conferencing program during the follow-up period. The percentage of respondents indicating that they would recommend a conference to a friend remained very high during the average 3.4 months from initial to follow-up survey (98.8% and 98.5%, respectively – Table 8).

Only aggregates were compared because initial survey responses could not be linked to follow-up survey responses. While these data afford commentary on overall group differences, inferences regarding changes in individual attitudes cannot be made. It is unlikely that any repeated measures design would have rendered significant group differences given the dearth of change in aggregate trends. Consequently, it is felt that these findings are both informative and useful. They serve to buttress comments made elsewhere (Palk 1998a) that the majority of individuals proceeding through the community conferencing programs have been satisfied with the outcomes, have felt the process was fair and that levels of perceived fairness and satisfaction have remained relatively consistent over time.

Percentages for the above tables were recalculated controlling for respondent role (i.e., young person, parent/caregiver, victim).<sup>5</sup> Results are consistent with the cross-classification analysis above and show that the largest relative shifts in attitudes about satisfaction

and fairness came from victims (see Tables 9-11 below). These differences are only slight but consistent with findings reported elsewhere (e.g., Umbreit 1996). The attitudes of young people and parents/caregivers remained more or less stable over time.

**Table 9: Perceived fairness of conferences across initial and follow-up groups by**

	Initial			Follow-up		
	Young Person N=113	Victims N=90	Parents N=148	Young Person N=54	Victims N=63	Parents N=148
Agree or Yes	111 (98.2%)	88 (98.2%)	148 (100%)	54 (100%)	59 (93.7%)	148 (100%)
Disagree or No	2 (1.8%)	2 (2.2%)	0	0	4 (6.3%)	0

Initial survey item: 'Overall, I thought that the conference was fair.'

Follow-up survey item: 'Overall, was the conference fair?'

**Table 10: Levels of satisfaction with conference agreements across initial and follow-up groups by respondent role**

	Initial			Follow-up					
	Young Person N=113	Victims N=90	Parents N=148	Young Person		Victims		Parents	
				A N=54	B N=54	A N=64	B N=63	A N=86	B N=85
Agree or Yes	112 (99.1%)	87 (96.7%)	146 (98.6%)	54 (100%)	54 (100%)	60 (93.8%)	58 (92.1%)	81 (94.2%)	84 (98.8%)
Disagree or No	1 (0.9%)	3 (3.3%)	2 (1.4%)	0	0	4 (6.3%)	5 (7.9%)	5 (5.8%)	1 (1.2%)

Follow-up survey item (A): 'At the time of the conference were you satisfied with the agreement that was made?'

Follow-up survey item (B): 'Are you happy with how the agreement has worked out for you?'

5 It should be noted, however, that chi-square tests were not calculated, as more than 20% of table cells had expected frequencies below 5.

**Table 11: Willingness to refer conferencing to others across initial and follow-up groups by respondent role**

	Initial			Follow-up		
	Young Person N=113	Victims N=85	Parents N=145	Young Person N=53	Victims N=62	Parents N=85
Agree or Yes	111 (98.2%)	84 (98.8%)	144 (99.3%)	53 (100%)	60 (96.8%)	84 (98.8%)
Disagree or No	2 (1.8%)	1 (1.2%)	1 (0.7%)	0	2 (3.2%)	1 (1.2%)

Initial survey item: "If I had a friend in the same position as me I would tell them to go to a conference."

Follow-up survey item: 'If you had a friend in the same position as you would you tell them to go to a conference?'

The remaining follow-up survey items were cross-classified by respondent role and percent affirmative responses were calculated (see Hayes & Prenzler 1998 for a complete list of survey items and chi-square results). The results showed that, overall, the vast majority of respondents were happy with various aspects of the community conferencing program. However, consistent with the initial survey results, victims appeared slightly less enthusiastic about some aspects of community conferencing. For example, a significantly smaller percentage of victims felt that the conference and what was required in the agreement had helped the young person to make up for the offence ( $\chi^2=14.43, df=2, p<0.05$ ). Also noteworthy (although not statistically significant) was the percentage of victims reporting that they would rather have had their matters dealt with by the courts. Nearly 15% of victims reported they would rather have had their matters dealt with by the courts, compared to less than 4% of both young people and parents. Overall, however, the vast majority of respondents felt that the conference was a better alternative to court.

**Conference outcomes**

A restorative initiative that renders satisfied participants may be judged as successful. However, if the offenders processed through such programs are not deterred from re-offending, then one may begin to question the relative merits of such alternative approaches to justice. The outcomes of agreements struck in the 76 conferences conducted during the study period are reported. The re-offending rates of offenders conferenced in both SE Queensland pilot programs are also examined.

**Agreements**

Conference agreements were examined across the two pilot sites. Results showed that, generally, conference agreements tended to be less 'onerous' than some critics have suggested (see O'Connor 1997). For example, looking at both pilot sites together, the most frequently applied 'tariff' was a verbal apology. Of 117 conference agreements struck in 76 conferences conducted between 1 April, 1997 and 29 May, 1998, 89.7% involved a verbal apology, 34.2% involved a 'commitment not to re-offend', 23.9% involved direct financial restitution, 17.9% involved voluntary work for the victim, and 36.8% involved community work. The average amount of money paid to a victim was \$85.94 where a young person agreed to

direct financial restitution. The average number of hours worked was 12.64 where an offender agreed to voluntary or community work. Thus generally, conference agreements in both SE Queensland pilots were not unduly harsh.

Another issue related to program 'success' is the rate at which conference agreements are fulfilled. Information on compliance was collected by the program coordinators. Each conference agreement is required to specify how compliance will be monitored. Usually the agreement nominates a conference participant, such as the victim, to monitor completion. If the requirements of the agreement are not fulfilled the nominated person will contact the police or court officer. During the evaluation period only five 'breaches' were reported for 76 cases conferenced. This translated to a 'compliance rate' of 93%. While this rate bodes well for the future of community conferencing and restorative initiatives, it must be regarded as very tentative. Having program staff actively follow offenders over agreement periods – rather than rely on reports from conference participants – would render more definitive evidence of compliance.

### ***Re-offending***

Another measure of program 'success' is the rate of re-offending of those young people diverted from the traditional court process. The offence histories of young people conferenced during the evaluation period were obtained from the Queensland Police Service. These data showed that, of the 137 offences recorded against young people conferenced during the evaluation period, only 8% (11) occurred after the date of a community conference. These 11 re-offences were associated with seven distinct young people. In each case these young people had also been dealt with for other criminal offences prior to the conference. Because criminal history data were obtained on 101 young people, this translated to a re-offence rate of 7% (7/101). This rate is, however, based on an unstandardised follow-up period. Increasing and standardising the follow-up period would likely increase the re-offending rates observed. Consequently little can be deduced from these figures, except a reminder that conferencing is not a panacea. Especially in the case of recidivist offenders, conferencing can not claim to be a solution to juvenile crime.

What is required for a more comprehensive analysis of success are comparative data from the Children's Court and Queensland Police regarding the recidivism rates of young offenders disposed of by caution or court. To our knowledge, no data of this kind currently exists. However, a recent study by the Department of Justice (DOJ 1998b) showed that approximately 40% of young people appearing in the Children's Court did so once or more. Approximately 37% appeared in court two or more times.

### ***Court appearance***

If diversionary conferencing is meeting its aim of steering young people away from the potentially negative effects of juvenile justice system processing, then an increase in the number of conference referrals should be accompanied by a decrease in court appearance. This, however, was not observed in the two pilot jurisdictions. In fact, for both pilot areas, the number of juvenile court appearances increased steadily or stabilised from the time community conferencing was introduced. This seemed to indicate that the police and judiciary in both pilot areas had not fully endorsed conferencing as a sound diversionary option for many offenders, were not willing to refer matters to conference, or currently regarded conferencing as a 'trial' program.

Another way to view the apparent under-utilisation of community conferencing in the pilot areas was to look at how young offenders in court pleaded. Pleading data showed that 60% of all young people appearing in the Children's Courts of both pilot areas enter pleas

of guilty. Depending on the eligibility of the case (i.e., the type of offence and criminal history of the offender), as much as 60% of cases proceeding to court could have been conferenced.

## Discussion

The Queensland Community Conferencing initiative has been shown to be successful with regard to the core goal of victim-offender reparation. Participant satisfaction levels in many cases were above common international standards of best practice. While still reporting very high rates of satisfaction, victims were somewhat less supportive on some program aspects. It may be that with greater pre-conference preparation or aftercare victim satisfaction rates might be improved. However, it may also be that the experience of victimisation is such that there will always be a ceiling on the achievable level of victim satisfaction.

Satisfaction is only one measure of program success, however. While restorative justice initiatives aim to repair the 'harm done to victims and communities as a result of criminal acts, while holding offenders accountable for their actions', the challenge remains in determining whether such initiatives are 'having the desired effects on victims, communities, and offenders' (Schiff 1998:1). One of the desired effects of diversionary conferencing is reduced levels of re-offending. Thus, it is necessary to assess the deterrent effect of restorative initiatives (see, for example, Sherman & Strang 1998).

Researchers have begun to recognise the need for more precise measures of various program effects (Schiff 1998) and have begun to develop research programs that can offer more than tentative evidence of the overall benefits of diversionary conferencing. Perhaps the most comprehensive evaluation of conferencing outcomes is currently underway in the ACT. The RISE (Re-Integrative Shaming Experiment) program will follow young and adult offenders randomly assigned to either traditional court processing or diversionary conference. To date there is insufficient data available to make conclusive findings regarding re-offending rates. (Sherman et al. 1998).

The results reported here do not shed light on the deterrent effects of community conferencing in that no reliable re-offending data were available for young offenders processing through the program. However, reducing levels of recidivism should be viewed as only one of several positive program outcomes. Young offenders, parents and victims (the primary stakeholders) should see value in a diversionary system that gives a greater voice to victims and young offenders. An initiative that is not endorsed or legitimised by its participants is unlikely to be successful. Young offenders who perceive little benefit or value from the diversionary process may not be deterred from further offending. Furthermore, the 'restorative' benefits of diversionary conferencing are less likely to be realised if victims feel the process is not credible or is potentially more harmful (to the victim) than court. The results reported above demonstrate that diversionary conferencing in the context of the Queensland pilot was successful in so far as young offenders, their parents and their victims were satisfied with program outcomes.

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