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# *Explaining Continuity and Change in Offending Behaviour after a Restorative Justice Conference*

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## *Abstract*

Over the past two decades, research has produced inconsistent results regarding the crime prevention potential of restorative justice conferencing for young offenders. Some comparative research has suggested that restorative justice conferencing reduces reoffending compared with other youth justice processes (Strang et al 1999). Other quantitative research has examined the circumstances under which conferencing reduces crime and has found that offender characteristics, conference features and post-conference life experiences are important in explaining reoffending after a conference (Hayes and Daly 2003). Drawing upon observation and interview data obtained from a sample of 25 young offenders who attended conferences in south-east Queensland, the study reported in this article explored how experiences in conferences relate to post-intervention offending behaviour. The results of the study suggest that young people in the sample who continued (n=9) or stopped offending (n=16) one year after their conference, had positive experiences in telling their story, meeting their victims and hearing their victim's stories in conferences. However, there were some key differences. Some young people who continued offending were disappointed when victims did not attend or perceived victims as being hostile towards them. In contrast, some young people who stopped offending viewed their conference experience as an event that helped them avoid future offending because the conference highlighted the consequences of their offending for victims. These results suggest that while, on balance, conference processes are judged positively, there are important interactional features that can bear negatively on post-intervention offending.

## **Introduction**

Restorative justice conferencing is being used extensively throughout the world to respond to juvenile offending (Hayes and Hayes 2008). According to Braithwaite and Strang (2001) and Pavlich (2005), government interest in restorative justice practices is, in part, a product

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of a general disillusionment with 'retributive' forms of justice administered by Youth Courts (for a full discussion of the antecedents of restorative justice, see Pavlich 2005). In Australia, restorative justice conferencing was first established in 1991 in the New South Wales town of Wagga Wagga (Hayes 2005). In the time since, the use of conferencing has grown such that all Australian states and territories now have legislation in place providing for the use of conferences (Hayes 2005; Hayes and Hayes 2008).

The use of conferencing in Australia has been supported by research showing that participants in conference processes (including young offenders, their victims and supporters) are satisfied with conference outcomes and feel that they are treated fairly (Cant and Downie 1998; Daly and Hayes 2001; Daly and Hayes 2002; Hayes, Prenzler and Wortley 1998; Kurki 2003; McCold 1998; McGarrell et al 2000; Morris and Maxwell 2003; Palk, Hayes and Prenzler 1998; Strang et al 1999; Trimboli 2000). However, the research results as to the crime reduction potential of restorative justice conferencing have been much more mixed (Hayes 2005). Some research has shown that restorative justice conferences have the potential to reduce future offending (Hayes and Daly 2003; Hayes and Daly 2004; Maxwell and Morris 2004). On the other hand, other studies have reported results that show conferences have either no effect on reoffending or may increase future offending (Latimer, Dowden and Muise 2005; McGarrell et al 2000; Sherman, Strang and Woods 2000; Strang et al 1999). Furthermore, less is known about the circumstances under which conferencing is most likely to reduce reoffending. The small number of studies conducted to date have indicated that reoffending may be less likely after a conference if an offender's conference experience includes the offender expressing remorse during the conference and the development of a consensual agreement (Hayes and Daly 2003; Hayes and Daly 2004; Maxwell et al 2004).

This article begins by describing the use of conferencing within Australia including within the Australian jurisdiction of Queensland under investigation in this study. Secondly, it discusses the debate over whether restorative justice conferencing should be expected to reduce reoffending and the arguments that have been put forward both for and against crime prevention being an aim of restorative justice. The article then reviews the findings of research that has examined the relationship between conferencing and reoffending, with a particular focus on studies that have examined how variation within conferences may relate to post-conference offending. Finally, it discusses the methodology and results of the current research, which aims to explore whether young people's experiences in conferences impact on their post-conference offending behaviour. This study draws upon a qualitative field study, which includes conference observation data and data obtained from interviews with 25 offenders both seven days and one year after their conference. In these interviews, young offenders were asked questions about what happened in their conference, given an opportunity to self-report any detected or undetected offending after their conference and — of key importance to this research — discussed the extent to which their conference experiences impacted on any post-conference offending behaviour.

## **The use of conferencing in Australia**

The current research was conducted within the context of Queensland's restorative justice conferencing program. In Queensland, around 2500 conferences are conducted each year and the use of conferencing is legislated for under the *Young Offenders Act 1992* (Qld) ('the Act') (Hayes and Hayes 2008). Conferences conducted in Queensland are administered by a

convenor and, pursuant to section 31 of the Act, can be attended by: the offender (or offenders if more than one young person committed the offence); the victim(s); a police officer; and supporters of both the victim and the offender, which usually include parents of young offenders and partners of adult victims.

Young offenders can be referred to a restorative justice conference either at the discretion of a police officer, where they admit to the offence to a police officer (section 30 of the Act); or by a Youth Court Magistrate, where they do not deny involvement in the offence (Part 7 of the Act). Referrals from the Youth Court can occur in lieu of sentencing (indefinite court referral) or, in more serious cases, as a condition of sentencing (conference attendance before sentence referral), which may result in the young person obtaining a criminal record. Importantly, the Act places no legislative limits on the types of offences that can be referred to a conference, but the police officer has to consider the nature of the offence in referring young offenders to conferences (Hayes 2007). It is important to note that there are some differences between Queensland laws and other Australian jurisdictions regarding referral of young offenders to conferences. Like Queensland, some jurisdictions do not place express limits on who may be referred to a conference. However, Western Australia does not allow crimes of violence, drug and traffic offences to be referred to conferences (*Young Offenders Act 1994* (WA)). In New South Wales, serious sexual assaults, serious drug offenses, breaches of apprehended violence orders, some traffic offences and offences that cause the death of a person cannot be subject to a conference (*Young Offenders Act 1997* (NSW)). In the Northern Territory, generally only property offenders attend conferences (*Crimes (Restorative Justice) Act 2004* (NT) (Maxwell and Hayes 2006)). Most jurisdictions are also like Queensland and have a legislative framework where conferences are administered by civilian staff known as convenors (Maxwell and Hayes 2006). However, the Australian Capital Territory, Tasmania and the Northern Territory run a dual system where conferences can be run by police or civilian staff (*Crime (Restorative Justice) Act 2004* (ACT); *Youth Justice Act 1997* (Tas); *Crimes (Restorative Justice) Act 2004* (NT)).

While legislative frameworks have been developed throughout Australia governing the use of conferencing, there is debate among criminologists regarding what should constitute the key aims of restorative justice conferences (Morris 2002; Crawford and Newburn 2003). Many proponents of restorative justice have argued that the key aims of conferencing should be to improve upon the juvenile justice system by: increasing victim involvement and satisfaction; holding offenders accountable for their actions in positive, constructive and non-stigmatising ways; and repairing harms (Hayes 2007). However, there remains widespread disagreement regarding whether conferencing should also be expected to achieve reductions in crime (Hayes 2005; Hayes 2007; Morris 2002). On one side of the debate, many restorative justice advocates suggest that crime control has never been a key aim of restorative justice (Morris 2002; Van Ness 2003; Van Ness, Morris and Maxwell 2003). In contrast, some criminologists, criminal justice practitioners and many governments expect many juvenile justice interventions to reduce recidivism and, thus, there is an expectation that the financial and political investment in restorative justice conferences will also produce crime reduction results (Hayes 2007; Morris 2002; Liebmann 2007; Cunneen and Luke 2007).

## **Researching the crime prevention potential of restorative justice**

As a result of the continued expectation that conferencing should reduce reoffending, research has also been conducted exploring the degree to which there is a relationship

between a young person's attendance at a restorative justice conference and reduced reoffending. Previous research in this area has been designed to address two key questions. Firstly, there are comparison studies which have asked: How does conferencing compare with Youth Courts in terms of preventing reoffending? (Hayes 2007). In addition, there are variation studies which ask: How and when do conferences work best to reduce reoffending? (Hayes and Daly 2003: 735). Existing experimental comparison studies have produced mixed findings regarding whether conferencing is effective in reducing reoffending. Some experimental studies have reported findings showing that conferencing results in no reductions in reoffending (Sherman, Strang and Woods 2000) or can lead to increases in reoffending compared to Youth Court (Sherman, Strang and Woods 2000; Latimer, Dowden and Muise 2005). However, other studies provide evidence to suggest that restorative justice does have strong crime reduction potential compared to Youth Courts and other interventions (McGarrell et al 2000; McCold and Wachtel 1998; Luke and Lind 2002; Sherman, Strang and Woods 2000; Strang et al 1999; Latimer, Dowden and Muise 2005; Maxwell and Morris 2004; Cunningham 2007). One of the key findings of the Canberra Reintegrative Shaming Experiments (RISE), which utilised a randomised control and treatment group design (Sherman, Strang and Woods 2000; Strang et al 1999) was that conferencing appears to be more effective in reducing reoffending compared with Youth Court when the conference offence has a personal victim (for example, a property offence, shoplifting offence or violent offence). However, it was found that conferencing appears to increase offending compared with Youth Court for the offence of drink driving, which does not have a direct personal victim (Sherman, Strang and Woods 2000; Strang et al 1999).

Hayes (2007) and Strang (2010) have argued that the inconsistency in the research findings regarding whether conferencing reduces juvenile offending compared with other interventions is to be expected given that these studies have utilised a range of different research designs. For example, the RISE project utilised a randomised control design to compare reoffending amongst offenders who attended conference and court across the four offending experimental groups of juvenile property offenders, juvenile shoplifters, drink drivers of all ages and violent offenders up to the age of 29 years. Other experiments have utilised pre-test and post-test experimental methods to compare reoffending amongst juveniles who attended court or conference (McGarrell et al 2000; McCold and Wachtel 1998). In contrast, Luke and Lind (2002) used a retrospective research design where the post-conference and post-court reoffending of first time offenders who attend conferences and court were compared twelve months prior to and the twelve months after the introduction of conferencing in New South Wales. Other scholars have argued that a key reason why studies have found a link between conference attendances and reduced reoffending might be that reoffending is less likely amongst conference participants (Strang 2010; Hayes 2007). The argument is that conference participants are generally less serious offenders and may, therefore, be less likely to reoffend (Strang 2010; Hayes 2007). Furthermore, some argue that it is reasonable to expect that reoffending would be no less likely after a restorative justice conference because restorative justice interventions are typically short and may not always address the causes of offending (Hayes 2007; Hayes and Hayes 2008).

In addition to the inconsistent results of comparison studies, a small number of studies have explored the related question of whether offender characteristics, as well as experiences within and after a conference, predict reoffending (Hayes and Daly 2003; Hayes and Daly 2004; Maxwell et al 2004). Collectively, these studies have shown that offender characteristics, conference experiences and post-conference life experiences are important in explaining reoffending after a conference. One such variation study was conducted by

Hayes and Daly (2003) who observed 89 conferences in South Australia and measured reoffending 8–12 months post-conference. Findings suggested that offender characteristics including race, higher age, gender, prior offending and social marginalisation were predictive of reoffending (Hayes and Daly 2003:743–4). Moreover, reoffending was less likely when young people were observed as remorseful in conferences and when decisions made in the agreement phase of the conference were consensual, even after controlling for individual offender characteristics associated with reoffending (Hayes and Daly 2003:743–4). A New Zealand study (Maxwell et al 2004) also found that young people were less likely to reoffend when they were remorseful, when the conference agreement was perceived as fair and when they were of the view that they were able to tell a story of what happened in their conference.

The exploratory study reported in this article focuses specifically on addressing the need for qualitative information on what explains why some young people stop and some young people continue offending after a restorative justice conference. Drawing upon the extant research on restorative justice conferencing and reoffending, this research asks the question: **How do young people's experiences in conferences relate to change in offending behaviour?** Such a focus — on obtaining qualitative accounts from young offenders on what explains their behaviour after a conference — is important because all of the existing studies on this topic have drawn upon on large scale quantitative data (Hayes and Daly 2003; Hayes and Daly 2004; Maxwell et al 2004). These quantitative studies have provided insight into some key conference experiences that may be important in explaining post-conference offending behaviour. However, this exploratory qualitative study utilises observation and interview data that provides a nuanced account of the extent to which what happens in a conference is important in explaining post-intervention offending.

## Methodology

### *Sample*

This study draws upon qualitative field data obtained from the Restorative Justice and Reoffending Project (RJR) Project.<sup>1</sup> The target population for the RJR sample included young offenders aged 10–16 years who had been referred to conferences in south-east Queensland between June 2004 and August 2006. To begin the process of recruitment, the Chief Investigator briefed Service Managers from four youth justice conferencing centres in south-east Queensland. Subsequently, Service Managers from the four conferencing centres agreed to send the Chief Investigator, at their own discretion, the referral summaries of offenders scheduled to attend conferences. These referral summaries included information about the young person's source of conference referral, age, gender, prior offending history, cultural identity, the details of their parent and caregivers, their victim's details and the details of their conference offence(s).

Upon gaining access to referral records of offenders, the Chief Investigator purposively selected young offenders for potential inclusion in the sample. In using a purposive

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<sup>1</sup> The RJR Project began in January 2005 and was funded under an Australian Research Council (ARC) Linkage Grant with the Queensland Government Department of Communities. The aim of the RJR Project was to respond to the need for in-depth qualitative research that provides insight into the circumstances under which conferencing works best to reduce reoffending. There were three key phases of data collection including the conference observations, an interview with young offenders seven days after their conference and an interview with young offenders one year after their conference.

sampling method, the aim was to gain a mix of offenders with a range of different characteristics across the variables of gender, age, Indigenous status, offence type, prior offending history and the method of referral to conference. As required by the research ethics approval gained for the study, selected young offenders and their parent(s) or legal guardian(s) were then approached by a member of the research team on the day the conference took place and were asked if they would like to participate in the project. In cases where the young person and their parents or legal guardians expressed verbal interest in participating in the project, prospective participants were asked to consider signing a written consent form to participate in the project. In the event that written consent was given by both the young person and their parents or legal guardians, the young offender was included within the study's sample.

At the end of the recruitment process, the full sample recruited to participate in the first phase of data collection (the conference observation) consisted of 68 young offenders who attended 48 conferences. Fifty of these offenders (73.5%) were interviewed approximately one week following their conference. However, there was some subsequent loss of participants at follow-up with 25 (36.8%) participants in the full sample participating in the one-year follow-up interview. There was attrition at the seven day follow-up as some offenders did not attend their seven-day interview because they could not be contacted to arrange this interview or decided that they no longer wanted to participate. Furthermore, some young offenders who attended their seven-day interview did not want to attend a one-year follow-up interview or could not be contacted to arrange a one-year follow-up interview.

The current study focuses on a sub-sample of 25 young offenders who participated in all three phases of the RJR Project. This sub-sample was chosen because it was at the one-year follow-up interview that offenders were asked to self-report any detected or undetected offending they had engaged in since their conference. Offending was defined and operationalised in this research as including all detected and undetected offending that each participant self-reported. The definition of offending excluded the juvenile status offences of school truancy, underage smoking and the underage consumption of alcohol. Minor traffic offences including riding a bicycle without a helmet and speeding while driving with a licence were also not considered offending for the purposes of this research.

The study's focus on this sub-sample raises the question of how these individuals differ from the full sample of 68 young offenders that were initially recruited for the RJR Project. Overall, the sub-sample is broadly comparable to the larger sample from which it was drawn. The ages of participants are similar (*Mean full sample*=14.99 *SD*=1.125; *Mean sub-sample*=14.56 *SD*=1.190). In both the full sample and the current sub-sample most offenders are aged 14 to 16 years. There are also similar proportions of male and female offenders with approximately four times as many male offenders as female offenders. There were 57 males (83.8%) and 11 females (16.2%) in the full sample and 20 males (80%) and five females (20%) in the sub-sample. Furthermore, there was a high retention of Indigenous participants through to the final phase of the RJR Project with nine (13.2%) Indigenous participants in the full sample and six (24%) in the sub-sample. Almost all offenders in both the full sample (*n*=51, 75%) and the sub-sample were referred to their conference by the police (*n*=21, 84%). Most participants in both the full sample (*n*=47, 69.1%) and the current sub-sample were referred to conferences for a property offence(s) (*n*=16, 64%). Finally, there were similar proportions of violent, public order and drug offenders in both the full sample and the sub-sample.

### *Data collection phases*

In Phase 1 of data collection, observations were conducted of the conferences of all offenders participating in the RJR Project. Before observations took place, all stakeholders attending conferences were given an information sheet outlining that the conference was being observed as part of a research project. To conduct the observations, researchers sat inside the room, but on the outside of the conference circle. Observers did not take notes during the conference, but within 24 hours of the conference, a detailed monologue of what was observed within the conference was recorded and transcribed, and an observation protocol was completed.

A potential limitation of using observational data is that there is a risk that participants in the conference process may behave differently because of the presence of the observer. Observations can also be criticised on the basis that the views of observers regarding the behaviour of young offenders and other parties at conferences are, by nature, subjective. However, the methodology of the RJR Project incorporated safeguards that were designed to minimise the effect that the observer may have on the behaviour of participants and the subjectivities involved in conference observations. These safeguards included observers sitting outside the conference circle and avoiding completing data records during the conference, which could create noise and distraction for participants. Furthermore, all young offenders participating in this study stated in their interviews that they were not bothered or affected by the presence of observers.

Phase 2 and 3 of the RJR project involved offenders participating in an in-depth interview seven days after their conference and one year after their conference. Both the seven-day and one-year follow-up interviews were conducted by experienced conference convenors employed to facilitate conferences by the Queensland Government Department of Communities. Experienced conference convenors were chosen as interviewers as they had extensive knowledge of the conferencing process. The interview schedules for the initial interview contained a range of questions for young people about their experiences in their conference. In addition, the interview schedule for the one-year follow-up interview contained a range of questions about the young person's conference experiences and life experiences since their conference. In the follow-up interview, young offenders were also asked to self-report any detected or undetected offending they had engaged in since their conference.

To start a discussion with young offenders about their post-conference behaviour, interviewers asked young offenders the question: 'Now I'd like you to tell me if you've gotten into any trouble since your conference last year?'. Additional probing by interviewers asked offenders to include any behaviour that they had engaged in that was against the law regardless of whether it was detected by the police. The disadvantage of using a self-reported measure of offending is that participants may not remember the details of all the detected and undetected offending they have committed and may not be completely honest when disclosing their offending histories. However, the use of self-reported offending data in this study is a useful and valid approach as it avoids the accessibility problems with official criminal history data and has been shown by research to be a valid source of information that is predictive of future contact with the criminal justice system (see Farrington 1992; Cunneen and Luke 2007).



### *Analytic strategy*

The data used in this study were analysed using a thematic coding approach (Silverman 2006; Auerbach and Silverstein 2003; Liambuttong and Ezzy 2005). The thematic analysis of the data proceeded through a number of stages. The first stage of this thematic coding process involved an initial read through of the observation, initial interview and follow-up interview transcripts to determine if the young offender had self-reported any behaviours that constituted reoffending or not reoffended post-conference under the study's reoffending definition. The definition of reoffending included all self-reported undetected or detected offending excluding juvenile status offences such as smoking, school truancy, underage smoking and consumption of alcohol as well as minor traffic offences.

It was identified that one year after the conference, nine offenders in the sample self-reported a continuation with behaviour that met the definition of reoffending since their conference and the other 16 young offenders reported stopping offending since their conference. In the second stage of coding, transcripts were coded into key themes. This initial coding was followed by an iterative process of re-reading the data several times. This iterative process of re-reading the data allowed for any relevant findings initially overlooked to be coded. Following this, the final stage of analysis took place: the comparative analysis. The overall aim of this research was to draw comparisons between the conference experiences and views of individuals who have continued to offend after the conference experience and those who, at one year after the conference, had not committed an offence. Once all the data were coded around the key themes, a comparative analysis was undertaken of the conference views of young people (who reoffended and who did not reoffend after their conference) regarding the impact of their post-conference experiences on their offending behaviour.

### **Research findings**

An analysis of the observation and interview data used in this study shows that across the sample, 16 young people did not reoffend during the one year after their conference. These young people were classified as not having offended in the one year since their conference because at the follow-up interview they self-reported that they had not participated in any detected or undetected offending in the one-year period since their conference. A high proportion of young people who stopped offending after their conference were male ( $n=14$ , 87.5%), which is to be expected given that males make up a higher proportion of the sample ( $n=20$ , 80%) than females ( $n=5$ , 20%). Furthermore, four of the six Indigenous offenders did not reoffend and these were all male.

The remaining nine offenders in the sample were classified as having reoffended post-conference. These young people were identified as being reoffenders because they self-reported that they had engaged in at least one detected or undetected offence in the one year since their conference. Consistent with the characteristics of the sample, most participants in the reoffending group were male ( $n=6$ , 66.7%). Two out of the six Indigenous offenders in the sample were categorised as having reoffended in the one year since their conference, including one male Indigenous offender and one female Indigenous offender.

## Offenders telling their story

Conference experiences of young people were important in explaining why young people turn away from or continue offending after a conference. The analysis reported below covers experiences at two key phases of the conferencing process: when offenders and victims are *introduced* to each other and when offenders and victims *tell the story* of the offence.

### *Offender experiences in 'telling their story'*

One of the primary aims of restorative justice conferencing is to give offenders an opportunity to tell their own story about how and why they committed the offence(s) (Hayes 2005). Offenders are required to tell a story of what happened because this can provide a constructive means for offenders to acknowledge that what they did was unlawful and to take responsibility for their actions (Hayes 2007). The story told by the offender can also provide victims and their supporters with a greater understanding of the reasons why the offence was committed (Liebmann 2007).

The observation and interview data show that many offenders were good at communicating their story during their conference and looked back on the experience of telling their story as a positive one. Many young people stated that this part of their conference was positive because it provided them with an opportunity to take responsibility for their offending and explain to the victim and other parties present why the offence(s) occurred.

This is illustrated through the example of a female participant (participant 21) who did not reoffend in the one year since her conference. This young person stopped offending after attending a conference for break-and-enter and property damage offences. The observation monologue for this conference shows that the observer took the view that this young person was articulate and was effective in giving a clear story in the conference about how and why the offence occurred: 'The young person, her demeanour was respectful. She gave a clear story. The conveners didn't have to prompt her too much. She was actually quite an articulate young girl'. Furthermore, the young person stated in her one-year follow-up interview that a fairly positive part of her conference was that she got to communicate to the parties at the conference what occurred at the time of the offence: 'I just kept telling everything that happened, yeah. It was pretty good'. What was also clear from this young person's one-year follow-up interview was that it was satisfying for this young person when it became apparent that the victim believed her story: 'Then after a while she actually started understanding that I was actually telling the truth, and so yeah, it worked out really good'.

In contrast to the experiences of this participant, observation data show that some young people did have some difficulties in telling their story in conferences and had trouble expressing themselves in their conference. Some of these offenders required some probing questions from the convenors before they could tell their story about what happened at the time of the offence. For example, the observation monologue of one young reoffender said: 'Overall, the young person did not give a very effective story. The convenor had to probe her several times. She...was actually quite brief' (participant 25). Similarly, the observation monologue regarding another young reoffender said:

What I noticed is that convenors draw the young person's story out through a series of questions... He looked at the ground a lot, avoided eye contact with other people in the room as he answered the questions of the convenor about circumstances related to the offence (participant 13).

The conference observation data also shows that some young people who reoffended after their conference did not seem to take responsibility for their offences or acknowledge the harmful effects that their actions may have had. For example, one observer noted about a female reoffender: 'I didn't get the sense that she really felt that what she had done was wrong or had made the connection between the offence and the emotional impact that that may have had on her family' (participant 25). The observer came to this conclusion because the young person when asked by the conference convenor if she understood that her stealing offences had an impact on the victim did not verbally respond and looked away from the convenor and the other parties at the conference.

This finding is illustrated in greater detail by the example of three co-offenders who attended a conference together. This group of young people attended a conference for a cab fare evasion, had no prior history of offending and included two males who continued offending post-conference and a male who did not reoffend after his conference. Observation data show that each of the co-offenders did not provide a useful account of the story of how or why this offence occurred. The observer stated that this was because these young people did not acknowledge that their actions were wrongful:

I am not convinced that these young people fully appreciated or had taken full responsibility for what they had done. I'm not sure that they construed the offending behaviour as in fact wrongful... An example is the comment that [one] young person made that everyone does it and that people are very careless all the time (participants 14, 15, and 16).

This harm minimisation was also exemplified in a comment made by one of the young people in his initial follow-up interview: 'No I wouldn't say it was serious. It happens about at least 20 times in Brisbane every Saturday and Friday night' (participant 16). He also made comments to suggest some degree of non-acceptance of responsibility for the offence that was committed. For example, when asked whether the offence was his fault, he said: 'Not entirely my fault. We all made a mistake but it wasn't fully my idea to jump the cab; it was pretty much that everyone agreed on it'. It is interesting to note that he continued with offending and had committed stealing and graffiti offences since his conference.

The data presented show that there were limited differences between young people who reoffended after their conferences and young people who stopped offending after their conference regarding the impact of the telling the story phase of the conference. The data discussed above highlights that some young people who stopped offending and continued offending had positive experiences in the story telling phase of the conference. Furthermore, some young people who reoffended or stopped offending after their conference did have trouble telling their story in their conference. One key difference is that there were a number of young people who reoffended after their conference who told stories that could be viewed as an attempt to minimise the harm caused to victims.

## **Meeting victims and hearing their stories**

Another key aim of Queensland's conferencing program is to provide offenders with an opportunity to meet their victims and hear their victims' stories regarding the offence (Hayes 2005). The argument is that by meeting their victims, offenders will gain a better understanding of the effects of their offending behaviour on others (Morris 2002). Furthermore, victims may also benefit by having an opportunity to describe the impact of the offence and obtain some degree of closure regarding the matter (Hayes and Hayes 2008).

### *Offender experiences in meeting victims*

Many participants reported that their experience of meeting their victims and hearing their story was, in fact, a positive learning experience for a range of different reasons. For many offenders, the experience was positive because they did not perceive their victims as having acted in a hostile or angry way towards them. Similarly, another young person (participant 10) who did not reoffend said the following about a victim: 'He was a nice guy...'. Similar sentiments were expressed by another young person (participant 3) who did not reoffend after his conference: 'Oh, made me feel sad for him. So he had to spend a lot of money'.

In addition, other young people viewed meeting their victim as a positive event because it allowed them to hear and understand the negative effects that their actions had. For example, when asked what it was like to hear the stories of their victims, one reoffender (participant 16) said: 'I would just say it's more to see how everyone feels and what's happened... It was just insight into what was going on. How far the ripple effect actually went'. Another reoffender (participant 13) said:

Actually, because when he said it, like he explained everything and how it affected him and everything he had to do. Because before I went in there I thought it's just like a little incident and nothing and then he said all the stuff - what it did and how much it cost him and I actually realised what I'd done and how much it affected him.

Consistent with previous research that has shown meeting victims is important in reducing reoffending (Hayes and Daly 2003; Hayes and Daly 2004; Maxwell and Morris 2004), some young people stated that meeting their victims helped them to stop offending after their conference. When asked what aspect of their conference helped them stay out of trouble after their conference, participant 6 said: 'It was just actually meeting the person' (participant 6) and participant 17 said that he did not reoffend post-conference because he found out in his conference that his actions had an effect on his victim and that he would not like to experience those effects: 'Yeah well I just realised I wouldn't want it done to me' (participant 17).

In stark comparison to the views expressed by these participants, other young people who reoffended made clear in their interviews that they did not view their experience of meeting the victim as completely positive because their victims acted in a hostile way towards them. This finding is illustrated through the example of a young male offender (participant 5) who continued offending after his conference. This young person attended a conference due to a wilful damage offence, which involved the young person vandalising a woman's car. The actual victim of the wilful damage offence did not attend the conference because she was scared of confronting the offender. As a result, the victim was represented by her father at the conference. The same young person made clear in his interview that he did not think meeting the victim's representative was a successful part of the conference because the victim's representative was hostile and judgemental:

- Interviewer: What do you remember about this person?
- Young Person: I don't know, he just asked a lot of questions about just kept accusing me of stuff.
- Interviewer: ... Did he do that in a way that was comfortable for you or not really comfortable?
- Young Person: Pretty uncomfortable I would say.
- Interviewer: Okay, can you tell me why that was, like--

Young Person: No he just, well he'd just say he's raised his kid's perfect and all over, like dad and mum didn't know he had problems, stuff like that.

These results indicate that the negative experience of meeting a hostile victim may diminish the positive benefits of conferences and may increase the likelihood of a person reoffending after a conference.

### *The absence of victims*

Another theme was that there were a number of participants in the sample who attended conferences where neither the victim nor a representative of the victim was present. Some of these offenders did not have victims present at their conference simply because they had committed offences that did not have a victim. These offences included possession of a dangerous drug (participant 21), public intoxication (participant 4) and affray (participant 20). In contrast, three male co-offenders (participants 7, 8 and 9) had to attend a conference without a victim because their victim had other commitments. Participant 9 in particular reported that it was disappointing that the victim was not present. Another male offender who persisted with offending after his conference (participant 1) also had to attend a conference without a victim because their victim was too afraid to face the offender within the conference setting. He also reported that not meeting the victim was a disappointing aspect of his conference:

Interviewer: How did the victim not attending make you feel?

Young Person: Just thinking how petrified they were.

Interviewer: How petrified they were. And how did that make you feel?

Young Person: Pretty medieval.

Interviewer: What does that mean?

Young Person: I don't know, just mean.

While these young people expressed disappointment about not meeting their victims, observers of conferences noted that they thought that some young people were relieved that their victims did not attend their conference. For example, in the case where the victim was too scared to attend the conference (participant 1), the observer noted: 'What I did observe is that when the young person realised that the victim would not be attending he was observably relieved and the convenor did make a comment about that'.

The findings detailed throughout this section have provided insight into the experiences of young people in meeting victims and hearing their stories. The results show that most young people, irrespective of whether they offended after their conference, viewed the process of meeting their victims as a positive learning experience because their victims were not hostile and the victim's story provided them with insight into the effects that their actions had. However, some young people who continued offending stated that they viewed their experience of meeting the victim as a negative aspect of the conference because their victims were hostile to them. Other young people who stopped offending after their conference reported that they viewed meeting their victims and hearing their stories as an event that helped them stay out of trouble after their conference.

## **Discussion**

The study reported here aimed to build upon existing research on restorative justice conferencing and reoffending. Prior to this study, all of the studies exploring

post-conference offending behaviour had taken a quantitative approach to exploring how conferences experiences influence future offending behaviour (Hayes 2007). This study presents qualitative observation and narrative interview data that provides some preliminary insight into how young people view their experiences in conferences and how these experiences might relate to their post-conference offending behaviour. Overall, the narrative observation and interview data show that there were some similarities between the conference experiences of young people who both continued offending and those who stopped offending after their conference. Within this, many young people who continued or stopped offending post-conference reported positive experiences in their conferences in telling their stories and meeting victims. Furthermore, some young people who stopped or continued offending after their conference reported that they had difficulty telling their story in their conference and arguably told stories that reflected harm minimisation.

However, the data presented above also highlights some key differences between the conference experiences of some young people in the sample who reoffended and those who stopped offending. Table 1 below provides a summary of these differences. It illustrates that some participants who stopped offending after their conference viewed hearing their victim's stories as positive because it made them realise that their actions did have consequences. Furthermore, some young people who stopped offending after their conference viewed their conference as a significant transition or turning point that helped them avoid further offending because they saw the effect that their behaviour had on victims.

In contrast, Table 1 shows that observers reported that some young people who reoffended after their conference did not, by their own account or by the observer's accounts, seem to take responsibility for their actions. Other young people who reoffended after their conference stated that a disappointing part of their conference was that they perceived their victim as having acted in a hostile way towards them during their conference. Some reoffenders noted that a source of disappointment was that their victim was not present at their conference, which meant that they did not get the opportunity to explain how the offence occurred or to apologise for their actions.

**Table 1: Key differences in conference experiences of offenders who did or did not reoffend**

<i>Key experiences of young people who did not reoffend</i>	<i>Key experiences of young people who did reoffend</i>
Conference made many young people realise the consequences of their actions on victims	Some young people did not take responsibility for their actions in conferences
Some young people viewed hearing their victims stories as an event that helped them stay out of trouble after their conference	Some young people were disappointed because their victim was not present or because they perceived their victim as hostile in their conference

The results of this study are consistent with the findings of quantitative research that has explored the circumstances under which young people are least likely to reoffend after a restorative justice conference. Like the present study, existing research has found that offending may be less likely after a conference if young offenders perceive themselves as having provided a clear story about the offence and if young people express remorse during

conferences (Hayes and Daly 2003; Hayes and Daly 2004; Maxwell et al 2004). The findings of this study are also consistent with the results of the RISE study, which suggested that reoffending may be less likely after a conference when there is a personal victim for the conference offence and when the victim is present at the conference (Sherman, Strang and Woods 2000; Strang et al 1999). A unique finding of this study is that reoffending might be less likely amongst young people who acknowledge that hearing their victim's story was an event that made them realise the consequences of their actions. Another finding of this study is that some young people viewed their conference as an event that directly helped them to avoid reoffending by making them realise the negative consequences of their actions.

The results of this study also have policy implications for existing government restorative justice conferencing programs and for the practice of convenors administering conferences in Australia. A key aim of restorative justice conferences is for convenors to foster an environment where offenders can outline what occurred at the time of the offence and the reasons why the offence took place (Hayes and Hayes 2008). However, scholars have questioned whether it is reasonable to expect young offenders to tell a clear story about their offending given the stressful nature of this task (Hayes and Hayes 2008; Roche 2004) and given that research has shown that young people are generally inarticulate in dealings with institutions of social control and the criminal justice system (Hayes and Hayes 2008; Roche 2004). It could be argued that conferencing should not be used if offenders are identified prior to the conference by police or convenors as uncomfortable in communicating in a conference-based setting.

The findings of this study also suggest that convenors should try and ensure that conferences are attended by the victim(s) in cases where there is a victim(s). This research also suggests that convenors should continue to implement measures to increase the likelihood of young offenders having positive experiences when meeting victims. There are many reasonable and justified reasons why victims cannot attend conferences, including that victims may not have the time to attend the conference, may be fearful of the offender or may not wish to talk to the offender (Hayes and Hayes 2008). Furthermore, it would be unfair and unrealistic to expect a victim to act in a way that offenders and outsiders perceive as positive and non-hostile. However, conference convenors might be effective in facilitating victim participation by talking to victims in a non-coercive way about the possible benefits of conference participation for themselves, for offenders and for the community. Conference convenors might also reduce the already rare circumstances when victims act in a hostile manner towards offenders by reminding all parties at the conference about the importance of offering positive, constructive and restorative comments and suggestions.

Finally, a potential limitation of this study to note is that the proportion of young people who self-reported reoffending is relatively small ( $n=9$ , 36%). Some scholars might suggest that offender characteristics have a greater impact on future offending than anything experienced in the conference (eg a young offender hearing a victim's story). However, Hayes and Daly (2003) found that beyond those offender characteristics known to be associated with further offending (eg gender, age and prior offending), there are features of a conference that remain associated with a reduced likelihood of reoffending (eg when young offenders are remorseful and when decision-making about conference outcomes is consensual).

## Conclusion and directions for future research

At present, there is continued debate regarding whether conferencing should be expected to reduce reoffending compared with Youth Courts (Hayes 2007; Morris 2002). Some advocates of conferencing argue that crime control has never been an aim of restorative justice and that the core aims of restorative justice are: to involve victims in the juvenile justice process; to hold offenders accountable; and to repair the harm between the victim and offender in constructive and non-stigmatising ways (Maxwell 2004; Morris 2002; Hayes 2005). Results from research are inconsistent regarding whether conferences reduce reoffending compared with other youth justice processes (Hayes 2005). The results of the study reported here and a small number of quantitative studies also suggest that there are specific conference experiences — including young offenders providing stories about their offence in their conference, young offenders meeting their victim(s) in conferences and young offenders perceiving meeting their victims as a positive experience — that reduce the likelihood of reoffending. Future quantitative and qualitative research should explore the conference experiences that are important in reducing reoffending. It is only through the maintenance of a strong research agenda that the crime reduction potential of restorative justice conferencing will be better understood.

## Legislation

*Crimes (Restorative Justice) Act 2004* (ACT)

*Crimes (Restorative Justice) Act 2004* (NT)

*Youth Justice Act 1997* (Tas)

*Young Offenders Act 1997* (NSW)

*Young Offenders Act 1992* (Qld)

*Youth Offenders Act 1994* (WA)

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