

S A J J

South Australia Juvenile Justice Research on Conferencing

**Technical Report No. 2
Research Instruments in Year 2 (1999)
and Background Notes**

by

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Abstract

This technical report describes the instruments and methods used in Year 2 of the South Australia Juvenile Justice (SAJJ, pronounced *sage*) Research on Conferencing Project. This report should be read in conjunction with *SAJJ Technical Report No. 1*, which overviews the legal and organisational context of conferencing in South Australia, theoretical aims, sampling plan, and early results from the SAJJ project. *Report No. 1* shows the 6 instruments used in Year 1 (March-July 1998), providing background material and notes on how each instrument was designed, the source and rationale of question items, and what problems (if any) emerged in using each instrument.

Part I of *SAJJ Technical Report No. 2* describes features of the SAJJ sample of conferences and the people interviewed, updating and amending preliminary material that had been presented in *Report No. 1*, and it depicts changes that have occurred in the role of the South Australian police in the conference process. Sections in Part I describe:

- the context of the field work
- the sample of conferences observed
- the sample of young people (offenders) and victims interviewed
- interview response rates, length, and elapsed time between the conference and interviews
- change during 1999 and 2000 in South Australian conferencing
- the people who helped in the research

Part II describes the 6 instruments used in Year 2 (March-July 1999), providing material on the source and rationale of question items. The instruments, which are shown in Appendices 1-6, are the

- Young Person (YP) interview
- Victim interview
- Victim "No Show" interview (for victims who did not or could not attend the conference);
- Youth Justice Coordinator (YJC) end of research period interview
- Police Youth Officer (PYO) end of research period interview
- Youth Court Judge and Magistrate end of research period interview

The aim in assembling this document is to describe the SAJJ project and to assist others who plan to conduct research on conferencing and restorative justice processes more generally. As Project Director, I was ultimately responsible for the content of the research instruments and conduct of the research. Among other responsibilities that come with directing a project, I was an active researcher, involved directly in the day-to-day work of interviewing victims and offenders. However, the research could not have gone forward and with its high degree of quality without the commitment and intelligence of members of the SAJJ research group.

Two research assistants -- Michele Venables and Liz Mumford -- who worked for the SAJJ project in 1998, returned in 1999 to work on it. A new research assistant, Rachel Mann, began working on the project in December 1998 and January 1999 in Brisbane, and was part of the interview team in Adelaide during March - July 1999. Venables acted as project manager, and all the researchers played key roles in establishing office procedures, preparing items for and revising the research instruments, and conducting the interviews during the 1999 research period.

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This report and appendices are on the Australian Institute of Criminology website at <http://www.aic.gov.au/rjustice/sajj.html>

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in conducting this research in 1999

The SAJJ project depended on the cooperation and goodwill of the conference coordinators, police officers, young people (offenders), victims, and their families, without whom the project would not have been possible. Among those in the Youth Court, I am especially grateful for the support of Senior Judge Andrea Simpson, Janet Kitcher (Youth Court Registrar), Carolyn Doherty (Senior Youth Justice Coordinator), and the Family Conference Team administrative staff (Vicki Green, Jackie Wake, and Marion Charman). Among those in the South Australian Police, my appreciation goes to Senior Sgt Dave Wardrop (Adelaide) and Senior Sgt John Smith (Whyalla). Members of the SAJJ research group in 1999 (Michele Venables, Liz Mumford, and Rachel Mann) were indispensable in developing the instruments, conducting the interviews, and reflecting on the research process. Other key people who advised me in the design and fielding of the research are acknowledged in Part I, Section 6 of the report.

A note on style

The many numbers in this report created problems in what style rule to adopt in spelling out numbers. Normally, in textual material, numbers one through ten are written out, except when they are counts of hours, days, weeks, percentages and the like. The rule I used is to write out numbers one through five, except when a sentence had both small and larger numbers, when I defaulted to numerals for consistency within the sentence.

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Appendices

In the hardcover version of this report, the colour of the instrument's cover page serves to show its location. One cover is used to mark the three end of research period interviews with the police, coordinators, and magistrates/judges. The appendices are ordered as follows:

- 1 Young Person (YP) interview (blue cover page)
 - 2 Victim interview (purple cover page)
 - 3 Victim "No Show" interview (yellow cover page)
- End of research period interviews (red cover page)
- 4 PYO interview
 - 5 YJC interview
 - 6 Youth Court judge and magistrate interview

Part I: SAJJ Project, Year 2 (1999)

1. Context of the field work

SAJJ Technical Report No. 1 provided an overview of the legal and organisational context of conferencing in South Australia, my preliminary research leading up to the SAJJ project, a comparison of SAJJ with RISE (Re-Integrative Shaming Experiments), general design considerations, theoretical aims, sampling plan and data gathered in Year 1 (1998) of the project (Daly et al. 1998). *SAJJ Technical Report No. 2* recapitulates and updates portions of the first report, and it describes data preparation and analysis from August -December 1999, preparation of materials to return to the field in February 1999, field work undertaken during March-July 1999, and post field work activities. For background, I sketch the major research questions of the SAJJ project, the research design, and my broader theoretical aims.

SAJJ research questions

Drawing from research on restorative and procedural justice, the SAJJ project poses these questions:

Q1: Are two dimensions of restorative justice, namely, *restorativeness* for victims and offenders, and *democratic process* in group decision-making, present in conferences?

Q2: Do judgments of *restorativeness* and *democratic process* vary by

- participants' roles (coordinator, police officer, victim, and young person or offender)¹
- participants' social locations (age, gender, race-ethnicity)
- context (urban/rural)
- the kind of harm (violent or property, personal or organisational)?

Q3: Does it matter that a conference is "successful" (or not) for the future behaviour or well-being of offenders and victims?

The focus of SAJJ is on ways of measuring restorative justice practices, and variability in the conference process and participants' understandings of it. (Please note: the term "democratic process" refers to a wider set of participatory justice activities than "procedural justice", but because procedural justice is more commonly used in the literature, I use the terms interchangeably.) While some may assume that a "successful" conference will have positive effects in the future, the SAJJ project treats this as an open question. In 1999, we focused attention on Question 3, probing if and how the conference process changed young people and if it assisted victims in recovering from the disabling effects of crime. The SAJJ project departs from the other major Australian research project on conferencing, the Re-Integrative Shaming Experiments (RISE), in *not* testing the theory of re-integrative shaming developed by John Braithwaite (1989). That theory focuses almost exclusively on

¹ Naming 10-17 year olds who have broken the law is not straightforward. In SA (and Australia, more generally), the preference is to use the term "young person" or "young people" rather than "offender". Throughout this report I shall use these terms interchangeably, but more often shall use the abbreviated "YP". This terminology can be a problem, however, because crime victims can also be young people.

relationships between young people (offenders), their supporters, and members of the community in the conference process, having relatively less to say about relationships between young people (offenders) and crime victims. The SAJJ project examines whether the claimed features of a successful conference process -- "restorativeness" and democratic process -- are evident in the conference process and what longer term effect they may have.²

Research design and data gathered

Conference observations

The project called for observing conferences in the metropolitan Adelaide area and in several large country towns served by the Family Conference Team's Port Augusta office. In Adelaide, we observed all the "SAJJ offence-eligible" conferences (defined below) scheduled during a 12-week period (9 March to 26 May 1998). Out of the Port Augusta office, we observed all the "SAJJ offence eligible" conferences scheduled in Port August, Whyalla, and Port Pirie during a 12-week period (1 April to 29 June 1998).

SAJJ eligible offences included all personal crimes of violence (that is, assaults, sexual assaults, robbery) and the more serious kinds of property offences (for example, breaking and entering, theft of a motor vehicle, property damage) that had individual victims or community organisations as victims (such as schools, hospitals, housing trusts). Excluded from the sample were all drug offences, all larcenies except theft or "illegal use" of a motor vehicle and embezzlement, and all public order and driving offences, except hinder/resist police. The sampling strategy aimed to maximise the likelihood of victim presence and more serious types of offence, that is, those creating emotional concern or anxiety for individuals or communities.

During the 12-week research period in 1998, there were a total of 103 "SAJJ offence eligible" conferences scheduled. Of the 103 conferences, 10 did not go forward for the following reasons: for 7, the young person did not show up on the day, and in 3, the young person did not admit to the offence. Of the remaining 93 conferences that were held, the SAJJ group observed 89. Four conferences were not observed because the young person (YP) or family member refused permission for observation (N=2) or the YP was already in the SAJJ sample for another conference (N=2).

Of the 89 conferences, 80 were held in the metropolitan Adelaide area, and 9, in the country towns of Port Augusta and Whyalla. The 89 conferences contained a total of 107 offenders. Using offenders as the unit of analysis, the offence composition in the SAJJ sample contained a far higher share of personal crimes of violence (39/107 = 36 percent) than those disposed of by conference in South Australia during 1998 (14 percent, as calculated from South Australian Office of Crime Statistics 1999: Table 3.3c, p. 111). Further detail on how the SAJJ sample compares to the universe of conference referrals in 1998, together with a description of the offences and offenders in the sample, are shown in Sections 2 and 3.

² In other publications, I describe the elements associated with "restorativeness" -- including variables that tap the degree of "movement" between victim and offender in recognising the other and in seeing their point of view (see Daly et al. 1998: 32-45, 49-50 on measures of procedural and restorative justice; for reporting of results from SAJJ, see Daly 2000c, 2001a, 2001b). I concur with Tony Bottoms (2000) that the term "restorative justice" should be viewed as a nominal concept, that is, we ought not to assume that this justice practice literally aims to "restore" young people, victims, and members of the community, as so many advocates have claimed.

For each of the 89 SAJJ conferences, the Youth Justice Coordinator (YJC) and Police Youth Officer (PYO) completed a self-administered survey about what they observed in the conference and their judgments of the other's professional performance, and a SAJJ researcher completed the Briefing-Observation Protocol (the "BOP"), an observational instrument to record what occurred in the conference process. These instruments focused on the degree to which elements of "restorativeness" and "democratic process" were present in the conference, drawing on the restorative and procedural justice literatures. In addition, measures were constructed of the degree of case preparation and contact that the YJC had with victims, offenders, and their supporters prior to the conference; and observational measures were taken of how well the YJC explained the legal context of the conference process and outcomes to the offenders.

Interviews with young people and victims

In 1998, we aimed to interview all the young people associated with the 89 conferences (N=107),³ and the primary victims (N=89).⁴ The focus of these interviews was on the offenders' and victims' experiences in the conference process, what they expected would happen and what in fact happened, how the offence affected victims, what the young person's legal knowledge was of the conference process and outcome, the degree of procedural justice evident in the conference process, whether the conference process affected offenders' and victims' anger or fear, and whether the conference changed their attitude in a more positive (or negative) direction. The SAJJ group interviewed 93 young people (87 percent) and 79 victims (89 percent) in Year 1. In Year 2, we aimed to interview all those young people and victims *who had been interviewed in Year 1*, that is, we decided not to include the 1998 non-respondents in the 1999 target sample (see pp. 33-34). In 1999, we obtained completed interviews for 88 of the 93 young people (95 percent) and 73 of the 79 victims (92 percent). Overall, then, across the two years, the response rates were 88/107 (82 percent) for the young people and 73/89 (82 percent) for the victims. A detailed analysis of the response rates is given in Section 4.

Re-offending of SAJJ young people

To determine how the conference may have affected the young people's offending post-conference, a recidivism study was undertaken with cooperation from the South Australian Police. Offending histories of the 107 SAJJ young people included offence dates, types of offences, and how they were handled (by a formal caution, family conference, or court proceeding). Data were available for all offences known to the South Australian police since the offender was 10 years of age, the age of criminal responsibility in South Australia.⁵

³ The initial count was of 110 YPs, but two were ineligible because they withdrew from the conference agreement (there was a third YP at the conference who did participate and sign the agreement and fell into the sample); another was ineligible because she was already in the SAJJ interview sample. The 107 YPs are different individuals.

⁴ I made the decision to interview all the young people but just one victim after talking with Heather Strang about what procedure had been taken in RISE. Like many other decisions, the SAJJ project has benefited from the experience in the RISE project, especially Heather Strang's advice and counsel.

⁵ In the 1998 interviews, we asked the YPs how long they had lived in Adelaide (or the Port Augusta/Whyalla area), but we didn't ask how long they had lived in South Australia. A crosscheck of the age of the YP and length of time s/he has lived in Adelaide (or the country towns) reveals that 9 of the 93 YPs interviewed in 1998 may not have taken up residence in South Australia until after the age of 10. Pre-conference offence histories for these YPs may therefore be incomplete relative to the others.

Offence histories were available through March 1999, just before the SAJJ group began the Year 2 interviews. Preliminary analyses of these data have been carried out (Hayes and Daly 2001) to determine post-conference offending behaviour and legal interventions 8 to 12 months following the conference. A second pass of the data was made in April 2001, which will be used to analyse post-conference offending behaviour and legal interventions 32 to 36 months following the initial SAJJ conference.

Interviews with Police Youth Officers (PYOs), Youth Justice Coordinators (YJCs), and Youth Court Judges and Magistrates

Toward the end of the research period, during June and July 1999, extended interviews (typically lasting 1.5 to 2 hours) were carried out with a total of 9 YJC's, 8 of whom the SAJJ group observed running conferences in 1998,⁶ and one who had been hired in the past year. Interviews were conducted with 17 police officers, 12 who worked as PYO's in Adelaide, and 5 in the country towns. In the country towns, the officer in charge of each police station in Port Augusta, Whyalla, and Port Pirie was interviewed, along with two officers in Port Augusta and Whyalla who were in the conference observation sample. Interviews were conducted with three of the four members of the metropolitan Adelaide Youth Court: the Senior judge, another judge, and one of the two magistrates based in the court.

General design and broader theoretical aims

General design

As anyone who has studied legal processes knows, there is a tension between wanting to depict and understand (1) the dynamics and details of particular cases and (2) the wider structuring mechanisms that promote regularities and patterns in decision-making. While this tension makes research on traditional court processes difficult, it is even more so for restorative justice, and for three reasons. First, for restorative justice, research protocols and the associated research literatures are new and emergent. As yet, there are no clear debates, settled findings, or agreed upon research questions. Second, for restorative justice, one must be mindful of the interrelationship between the offender's and the victim's view of the criminal process. In the traditional court literature, there is a division of labour between studies that focus on justice experiences *either* from the offender's *or* the victim's perspective. Third, and related to the second, restorative justice practices involve a wider group of people, with differing (and contested) lines of legal authority, which can make it hard to know exactly what to observe and to "look for". As but one example, the huge literature on procedural justice assumes that just one legal official (a police officer or an adjudicator of some sort) is involved in rendering a decision. Conference practices in South Australia (and most other Australian and New Zealand jurisdictions) do not work this way: there are, at a minimum, two authorities present (the conference coordinator and a police officers), along with other moral authorities such as parents or significant adults in an offender's life (see Daly et al., 1998: 49-50).

I recall vividly some of the earliest conferences I observed in South Australia and Canberra in 1995 (Daly 1996). I jotted notes of what I had observed and then wrote detailed field notes following these conferences. Then (as now), I was struck by the difficulty of knowing quite what to observe and record in a systematic way across many conferences. If one begins the

⁶ During the 1998 field work period, there were 10 YJC's (including the Senior), all of whom fell into the sample of conferences observed. Two of them were not interviewed: one died in January 1999, and another had left the post in June 1999, and it was difficult to secure an interview.

observation process by focusing, for example, only on "reintegrative shaming" or on "power dynamics in the conference process", one misses other relevant justice activities. My aim was, as Young and Hoyle (2000) have proposed, to study "the guts" of restorative justice--its mechanics, processes, and results--from the varied perspectives of victim, offender, researcher, police officer, and conference coordinator.

There are several ways to design and direct a research project. Some projects are designed to survey a large number of cases and to use mainly quantitative measures. From the start, I elected not to take this route. Rather I wanted to use a combination of data gathering methods, that is, both quantitative measures and more open-ended questions that asked for participants' understandings in their own words. I therefore decided to gather data on a relatively small number of cases (that is, for 100 conferences rather than 500), but to gather in-depth information. In directing the research, I also wanted to take a hands-on approach, that is, to be an active researcher in the field, observing conferences and interviewing victims and offenders. I also wanted to work with those at the research site, especially the police officers and coordinators, in developing the research instruments.

Theoretical aims

Although the SAJJ project has a particular set of research questions, it is informed by a wider set of debates and literatures in the justice field. In particular, my aims are to:

- Develop an iterative understanding of the idea of restorative justice. Specifically, while I shall determine how close conference practices come to ideals, I am also interested to discover whether practices may contain emergent principles.
- Probe the interrelationships between elements of retributive and restorative justice. From my preliminary research on conferencing, I have argued that it is inappropriate to characterise restorative and retributive justice in oppositional terms (Daly and Immarigeon 1998; Daly 1998, 2000a, 2000b). I explore this claim with the SAJJ data.
- Relate the results to the literatures on informal and formal justice. I am interested to show the ways in which these two modes of doing justice articulate with one another.
- Relate the results to the literatures on the politics of crime control. In particular, I am interested to explore how restorative justice fits into Garland's (1996) argument on the current economic and political "predicament of the state" -- to adopt a policy of crime prevention (via a "responsibilisation strategy") while also needing to appear to be "tough" on crime (via rhetorics and practices of increasing imprisonment).
- Relate the race, gender, and age dynamics in conference practices to feminist, critical race, and sociological literatures. I am interested to move on from older ideas of "differences in treatment" based on age, gender, race, etc., to newer ideas of how multiple social relations are expressed and contested in the conference process, including how participants reflect on what has occurred.
- See the project as one piece in a larger, more comparative understanding of restorative justice in Australia and elsewhere. I am interested to relate the findings not only to other research in Australia and New Zealand but also to projects in the United States, England, and several European countries.

For comparative analysis, it is important to emphasise that conferencing in Australia and New Zealand takes quite different forms, depending on the jurisdiction (see Daly and Hayes 2001; Daly 2001a). For those new to conferencing and its application in Australia and New Zealand, one point bears noting. The "Wagga model"⁷ of police-run conferencing, which first emerged in Australia in 1991 and was subsequently exported to North America and England, is atypical of conferencing practices in the region. The Wagga model is used in the Australian Capital Territory (the ACT), where it is being studied by the RISE project. It is also used by the police in Tasmania, and it was given a statutory basis in the Northern Territory in November 2000. The "New Zealand model" differs from the "Wagga model" in that there are, at a minimum, two authorities (or professionals) present: a coordinator who runs the conference, and police officer who discusses the implications of the young person's offending and participates in the outcome decision. Jurisdictions that use the "New Zealand model" (New Zealand, South Australia, Western Australia, New South Wales, Queensland) tend to engage in a high-volume of case disposition. To date, those jurisdictions using the "Wagga model" (the ACT, Tasmania, the Northern Territory) engage in a low-volume of case disposition.

Re-entering the field in 1999

Because my academic job is in Griffith University (based in Brisbane, Queensland), but the field work was based mainly in Adelaide, South Australia (about 2200 kilometres by road travel and 2.5 hours by plane), the project was necessarily made that much more complex with the need to establish a research office in another city.⁸ During December 1998 and January 1999, I worked with SAJJ researcher Venables in identifying the research materials we would need to construct the research instruments and to conduct the interviews in 1999. These materials included the young person's offending history, whether the agreement had been complied with and the length of the undertaking, the details of the agreement itself, and additional contact information on how to reach the young person or victim, should our initial efforts fail us. Some of the data gathered from the 1998 interviews would be relevant in structuring the questionnaire and asking questions in the 1999 interviews. For example, we needed to refer to the victim 1998 interview in asking victims whether there had been a lessening over the past year in the physical or emotional problems resulting from the incident.

Many boxes of research materials needed to be assembled and mailed, or brought with us on the plane or in the car, to Adelaide. In Adelaide, we established the SAJJ research office in the Youth Court, with space and office support provided by the Courts Administration Authority. The office in 1999 was in a set of rooms near the ones we occupied in 1998. Desks, tables, files, and other office paraphernalia needed to be moved into place, phone lines and computers installed and set up, and office routines established. SAJJ researchers Venables and Mumford did much of this work during the last week in February, and I joined them on 1 March 1999.

⁷ The name comes from the town in New South Wales, Wagga Wagga, where Terry O'Connell introduced a variant of conferencing as part of an "effective cautioning scheme" (Moore and O'Connell 1994).

⁸ In 1998 and 1999, the field work in Port Augusta and Whyalla also meant establishing a research office there, but that was for a shorter period of time (about 3 weeks).

On 9 March 1999, I presented the results of the YJC and PYO surveys to the YJC's and PYO's in Adelaide, and then again at the Australian Institute of Criminology's conference in Canberra (22-23 March). During March and the first week in April, the YP and victim interviews were constructed, revised, and field tested. The first YP interview was conducted on 7 April, and the first victim interview, on 15 April. During this period, Venables and Mumford created spreadsheets that detailed features of the agreement, whether it had been complied with (or when it was *due* to be completed since some agreements' end dates were in June), what was known about the apology process, and whether the young person had been in any "official trouble" since the conference.

From 24 May through 2 June, I relocated to Whyalla. From there, I conducted interviews with all of the victims and offenders associated with the country conferences, together with end of research period interviews with the two coordinators in the Family Conference Team's Port Augusta office and five police officers in Whyalla, Port Augusta, and Port Pirie.

Like the interviews in 1998, all the 1999 victim and young person interviews were tape recorded. The SAJJ researchers therefore had to track down the person to be interviewed, prepare the interview with relevant information gathered in 1998 or from other sources, arrange a convenient time for the interview and conduct it, and then transcribe portions of the interview (all of the open-ended questions) onto Excel spreadsheets. All the 1999 YP and victim interviews (except four) were conducted during a 3.5-month period, April through mid-July. Having spent 4.5 months in the field, I returned to Brisbane on mid-July 1999, a week before university classes commenced. Four interviews were completed during the post field work period: two in August, one in September, with the last interview completed on 2 December 1999.

2. Sample of conferences observed

The SAJJ sample is not a random sample of all conferences, but a sample of those in particular offence categories, that is, personal violence and the more serious kinds of property offences. Some organisational victims are included (like schools and community organisations), but others are excluded (that is, shops or stores, except embezzlement). The rationale was that when individuals or community organisations are victimised, there may be a heightened sense of feeling about these offences, compared with offences against commercial organisations, because they affect the security of individuals and "the community" most directly and visibly.

Table 2.1 compares the offences in the SAJJ 98 sample with offences disposed of by conference in 1998, using data collected and analysed by the South Australia Office of Crime Statistics. *Please note that the tables are numbered according to each section in Part I; they appear at the end of each section. Note too that the statistics may differ somewhat from those shown in SAJJ Technical Report No. 1, as the datasets have been cleaned, compared, and the variables modified.*

There are two ways of presenting data on conferences. One is *conference-based*, and the other, *offender-based*. In 1998, for example, there were 1,809 young people (offenders) whose cases were *referred* to the Family Conference Team (South Australian Office of Crime Statistics 1999: 111). Not all of these matters were disposed of by family conference: in 10 percent of cases, no conference was held because the youth did not attend or could not be

located, and in another 1 percent, while the conference was held, there was no resolution of the matter (p. 6). Therefore, in 1998, there were a total of 1,633 individuals (p. 114) whose cases were disposed of in 1,397 conferences (p. 130). Table 2.1 uses offender-based data to contrast the SAJJ sample of cases with those disposed in South Australia in 1998.

As shown in Table 2.1, while 14.5 percent of individual cases disposed of by conference in 1998 were for personal crimes of violence, the proportion in the SAJJ sample is, expectably, much higher at 36 percent. With no SAJJ-eligible cases of larceny from shops, the property offences in the SAJJ sample are composed of higher proportions of property damage, theft (or illegal use) of a motor vehicle, and breaking and entering offences.

Offence distributions vary, depending on how they are calculated (Table 2.2). Multiple-offender conferences mainly concern property, not violent offences.⁹ Thus, the conference-based distribution of offences shows a somewhat higher share of violent offences (44 percent) than does the offender-based sample (39 percent).

Of the 89 SAJJ conferences, there were 13 conferences (or 15 percent) with two or more offenders present, but as Table 2.3 shows, the number of offenders in the *whole offence* is much greater than the number present at a conference. Offending by young people is very much a group affair. Using the numbers in the whole offence, not just those caught or referred to conference, over half (55 percent) of the SAJJ offences were committed by two or more offenders.

Why might multiple offenders be present in over half (55 percent) of the whole offences but just 15 percent of conference cases? One reason is that some offenders were over 17 years of age, and their case went through the court system. A second is that some were never apprehended, and a third is that while co-offender(s) were apprehended, they were separated from other co-offenders as the case went through the legal system. In analyses not shown here, I found that while property offences typically involved two or more offenders (55 to 100 percent of them did), so too did a substantial portion of the assault offences (31 percent had two or more offenders). In the SAJJ sample, it was only the sexual assault and embezzlement cases that had one offender in the whole offence.

Not until I examined the numbers in the whole offence had it occurred to me that this crime element is overlooked in studies of victims and offenders in the legal process. From a victim's perspective, the experience of crime is what occurred in the whole offence (that is, "five people trashed my house"), and yet a victim may meet just one offender at a conference. And from an offender's perspective, there can be a perceived sense of injustice when s/he is caught or charged, but co-offenders are not ("I'm taking the blame, why aren't they?")

Tables 2.41 - 2.46 depict features of the sample of offences, *using the conference* as the unit of analysis. These data draw on information supplied in the police apprehension reports, and where appropriate, from the victim interviews conducted in 1998 and 1999. Here are some highlights:

- Two-thirds of the conference offences have personal victims, with the remainder having a mix of organisational and occupational victims.

⁹ These calculations are based on offenders who went to a conference. There were several offences that involved offenders who were over the age of 17 or who did not choose to go forward with a conference.

- Half (48 percent) the conferences involved victims and offenders who had not met or seen each other before the conference ("strangers").
- Of all conferences, 29 percent of the primary victims were injured.¹⁰
- Of the primary victims of violent offences, 64 percent were injured, 47 percent required medical attention, 35 percent needed to see a doctor, 21 percent needed emergency room assistance, and 6 percent, hospital admission.
- Ninety percent of property crime victims and 44 percent of violent crime victims reported financial losses as a result of the incident.
- Of property crime victims, the actual (that is, after insurance) out-of-pocket expenses ranged from \$0 to \$6000, with a median of \$400.
- Incidents occurred in a range of places, but the most frequent places were (i) at or near the victim's home and (ii) in a school building or on school property.
- The gender composition of offence victims was 31.5 percent each male and female, with the rest mixed male and female (a household or personal-organisational victim) or organisational victim only. The gender composition of the nominated primary victim was 51 percent male and 49 percent female.
- The racial-ethnic composition of victims was 4.5 percent Aboriginal and 71 percent non-Aboriginal, with the rest mixed or organisational victim only.
- Males were 76 percent and Aboriginal youth were 12 percent of primary offenders.¹¹

The number of people attending conferences, *excluding* the coordinator and police officer, ranged from one (just the YP was present) to 12; the median was five people (Table 2.5). This average is substantially higher than that reported in Office of Crime Statistics for 1998, where the median is three people (South Australia Office of Crime Statistics 1999: 131).¹² The gender and age composition of those attending conferences (*including* the YJC and PYO) is 61 percent male and 71 percent adult. It was not possible to gauge accurately the white (or non-Aboriginal) share of conference participants. Over 70 percent of the SAJJ conferences were run by male YJC's, and 75 percent by non-Aboriginal YJC's. Close to 90 percent of the police officers in attendance were male, and all were non-Aboriginal. All but 10 percent of the conferences observed were held in the Adelaide metropolitan area (see Daly et al. 1998: 19-22 for a discussion of why the country share of conferences turned out to be lower than expected).

¹⁰ The estimates of injury and financial loss have been estimated only for the primary victim in each conference, not for the "whole offence" when more than one individual (or household) was victimised.

¹¹ In multiple-offender conferences, a primary offender was identified; this person was the focus of the YJC's, the PYO's, and the SAJJ researcher's judgments of the offender's behaviour in the conference. I elected to take this approach because it is difficult to describe with any degree of accuracy the many exchanges that occur between an offender and victim, when one attempts to do so simultaneously for two or more offenders (and victims) and their supporters.

¹² This difference in conference size may be due, in part, to the different offences in the SAJJ sample. Using the number of offenders at the conference as an indication, multiple offender conferences were 15 percent of the SAJJ sample, but 11 percent of conferences held in 1998 (South Australia Office of Crime Statistics 1999: 131).

Table 2.1. South Australia Office of Crime Statistics 98 data (SAOCS-98) and the SAJJ-98 sample

offence (SAJJ-eligible offence has grey shading)	SAOCS-98		SAJJ-98	
	N	% of 1633	N	% of 107
assault	195	12	35	32.5
sexual assault	26	2	3	2.5
robbery	10	0.5	1	1
fraud & misappropriation	22	1	2	28
burg/b & e	267	16	23	22
receiving/unlawful possession of property	49	3	0	0
illegal use or interfere with m/v	122	7	17	16
larceny from m/v	32	2	0	0
larceny from shops	316	19.5	0	0
damage property	219	14	26	24
hinder resist police	15	1	0	0
other good order	194	12	0	0
drug offences	137	8	0	0
driving offences	15	1	0	0
other offences	14	1	0	0
	-----	-----	-----	-----
	1633	100%	107	100%

Summary of Table 2.1	SAOCS-98 (N=1633)	SAJJ-98 (N=107)
personal crimes of violence	14.5%	36%
SAJJ-eligible property*	38	64
hinder/resist police	1	0
SAJJ non-eligible property	24.5	0
good order, drugs, driving, other	22	0
	---	---
	100%	100%

*Note: A strict comparison is not possible because a portion of the break and enters were not SAJJ-eligible (those involving commercial establishments), as were some fraud cases (only embezzlement was SAJJ-eligible).

Table 2.2. Offence composition by conference and offender

	conference		offender	
	N	%	N	%
assault, assault occasioning bodily harm bomb threat	35	39%	35	33%
sexual assault	3	4	3	3
robbery with violence	1	1	1	1
larceny as a servant (embezzlement)	2	2	2	2
break & enter, house, school or other	13	14.5	23	21
damage personal property (house, car, etc.)	8	9	12	11
damage state property (school, house)	13	14.5	14	13
drive or interfere with motor vehicle without consent	14	16	17	16
	---	---	---	---
	89	100%	107	100%

Table 2.3. Number of offenders in the whole offence and at the conference

	whole offence (N=89)	at the conference (N=89)
1	45%	85%
2	17	10
3	14	4
4 or more	24	1
	---	---
	100%	100%

Table 2.4. SAJJ-98 conference-based distributions

Table 2.41. Offence and type of victim

offence	total	type of victim (N's)			
		pers/	occ	pers/	org
<i>violence</i>					
assault, assault occasioning bodily harm, bomb threat	35	27	5	2	1
sexual assault	3	3			
robbery with violence	1	1			
<i>property</i>					
larceny as a servant (embezzlement)	2				2
break & enter, house, school or other	13		1	2	4
damage personal property (house, car, etc.)	8	7	1		
damage state property (school, house)	13	2			11
drive or interfere with motor vehicle without consent	14	14			
	---	--	--	--	--
	89	60	7	4	18
		67%	8%	5%	20%

Table 2.42. Victim-offender relationship*

	N	%
immediate family (mother/father or sister/brother)	7	8
relatives	0	0
well known	17	19
casual acquaintance	12	14
known by sight or around school or neighbourhood	10	11
stranger, not known before the incident	43	48
	---	---
	89	100%

*Classifications are from the U.S. National Crime Victimization Survey

Table 2.43. Victim injury and economic losses

victim injured (all cases)			victim injured (violence cases only)		
	N	%		N	%
yes	25	29	yes	25	64
no	64	71	no	14	36
	---	---		---	---
	89	100%		39	100%

Violent offence victims (N=34 interviewed in '98)

	N=34
require some medical attention? (yes)	47%
need to see a doctor? (yes)	35
need emergency room assistance? (yes)	21
need hospital admission? (yes)	6

(table continued)

Table 2.43 (continued)

Economic losses, property offences (N=50)

[Note that 45 of 50 property offence victims (90 percent) reported losses.]

original estimates given in
police reports (N=50)

range	\$ 0 - 7000
median	\$ 500
mean (sd)	\$1193 (1723)

estimates given in '98 victim interviews,
before insurance (N=45 victims interviewed)

range	\$ 0 - 7000
median	\$ 700
mean (sd)	\$1413 (1807)

estimates given in '98 victim interviews,
after insurance (N=45 victims interviewed)

range	\$ 0 - 6000	only victims with losses (N=38) \$ 20 - 6000
median	\$ 400	\$ 575
mean (sd)	\$ 914 (1241)	\$1082 (1282)

Economic losses, violent offences (N=39)

[Note that 17 of 39 violent offence victims (44 percent) reported losses.]

original estimates given in
police reports (N=39)

range	\$ 0 - 3000
median	\$ 0
mean (sd)	\$ 185 (515)

estimates given in '98 victim interviews,
before insurance (N=34 victims interviewed)

range	\$ 0 - 3000
median	\$ 8
mean (sd)	\$ 268 (635)

estimates given in '98 victim interviews,
after insurance (N=34 victims interviewed)

range	\$ 0 - 2000	only victims with losses (N=13) \$ 16 - 2000
median	\$ 0	\$ 150
mean (sd)	\$ 146 (377)	\$ 381 (543)

Table 2.44. Place of incident*

	N	%
at/in V's home	18	20
near V's home	3	3
on street near V's home	9	10
at/in/near V's friend's, rel's, or neighbour's home	4	5
on street near V's friend's, rel's, or neighbour's home	0	0
inside restaurant, bar, or nightclub	0	0
other building	7	8
parking lot or garage	9	10
inside school building	7	8
on/ near school property	20	22
in apartment, yard, field, playground	2	2
on street, not near V's own or friend's home	4	5
on public transport or inside station	0	0
	---	---
	89	100%

*Classifications are from the U.S. National Crime Victimization Survey. The SAJJ dataset also contains codes from the Australian victimisation survey, but we found that the U.S. codes gave a better depiction of place.

Table 2.45. Victim and primary offender relations by gender

Victim sex	primary YP sex		N	%
	male	female		
male	25	3	28	31.5%
female	16	12	28	31.5
mixed (hhold or pers/org vic)*	12	3	15	17
organisational vic	15	3	18	20
	---	--	---	
total	68	21	89	
	76%	24%		100%

*Mixed means that a households and organisations were victimised with multiple victims who were male and female. Some offences may have both male and female personal victims, but the designated primary victim is shown here.

Table 2.46. Victim and primary offender relations by race-ethnicity

Victim race-ethnicity	primary YP race		N	%
	Abor	non-Abor		
Aboriginal	4	0	4	4.5%
non-Aboriginal	5	58	63	71
mixed (pers/org vic)	0	4	4	4.5
organisational vic	2	16	18	20
	---	---	---	
total	11	78	89	
	12%	88%		100%

 Table 2.5. Conference composition, size, and venue

	Excl the YJC and PYO	Incl the YJC and PYO
(a) Number of participants, range:	1-12	3-14
median:	5	7
(b) Male share of participants:	53%	61%
(c) Adult share of participants:	66%	71%
(d) White (non-Aboriginal) share of participants could not be estimated accurately based on observations.		
(e) YJC is male: 72%	YJC is white (non-Aboriginal):	75%
(f) PYO is male: 89%	PYO is white (non-Aboriginal):	100%
(g) Conference held in metropolitan Adelaide area: 90%		
(The remainder were held in Port Augusta and Whyalla)		

3. Sample of young people (offenders) and victims interviewed

Young people (offenders)

Table 3.1 shows demographics (age, gender, race-ethnicity) of the offenders from four data sources: South Australian Office of Crime Statistics data for 1998 (SA-OCS), the SAJJ sample of 107 offenders, and the SAJJ interview samples of 93 and 88 offenders in 1998 and 1999, respectively. These distributions can be used for several purposes. First, for the young people, we can compare the demographics of the universe of offenders conferenced in 1998 with those in the SAJJ sample. Second, we can observe attrition (if any) by demographic characteristics.

While the SAJJ sample of offences differs from the universe of offences conferenced annually in South Australia, having a much higher share of personal crimes of violence, the distributions by age, gender, and race-ethnicity in the SAJJ sample are similar to those in the SA-OCS 1998 statistics. In both, males are 78-79 percent of offenders, and Aboriginal youth are 12-13 percent. The SAJJ offender sample has a slightly higher median age (by 6 months) at 15 years.

Inspection of the distributions of the SAJJ sample of 107 offenders to the interview samples in both years, there is an expectable aging of the offenders by one year, no differences in gender, but attrition in the percent of Aboriginal youth, from 12 to 8 percent (see Section 4 for other analyses of attrition).

Victims

Compared to offenders, victims have a more complex demography (Table 3.2). A portion of the personal crime victims were households (such as when a young person walked into a house and broke down the door of another adolescent); in this SAJJ case, the mother who was not home at the time felt especially victimised.¹³ While most victims are personal crime victims, others were victimised while at work (personal-occupational victims), and others were personal-organisational victims. An example of the latter in the SAJJ sample was when a school principal was assaulted by a student, who also trashed the spaces of school workers in the principal's outer office.

For the type of victim, 25 percent were organisational or personal-organisational victims, and an additional 12 percent were household victims, a category comprising incidents having multiple victims who were threatened or harmed by the offence (Table 3.21). The gender composition of victims who represented organisations and households (Table 3.22), though varied, is balanced when the two categories are combined. For the type of organisation or occupation victimised (this includes all personal-occupational, personal-organisational, and organisational offences), half were schools, with the remainder spread across housing trusts, store or warehouse, police officer, a hotel or bar, and other (Table 3.23).

The median age of the primary victim was 35 years; half were male, and 5 percent, Aboriginal (Table 3.3). Inspection of the distributions from the sample of 89 victims to the interview samples in both years shows some age attrition in the Year 1 interviews, although this can be explained by the different times when age data were gathered: for the entire sample, it was from the police report, but for the Year 1 interview, it was at the time of the

¹³ The primary victim, her husband, attended the conference and reported in the interview about the effect of the incident on his wife.

interview. There is no attrition by gender, and some attrition of Aboriginal victims in the Year 1 interviews (see Section 4 for further analyses). In three cases, parents spoke on behalf of their children in the interview; two were assaults and the other, a sexual assault. Victims were present in 74 percent of conferences, and in another 6 percent, a Victim Support Services (VSS) person represented the victim (Table 3.4).

Table 3.1. Young person (offender) age, gender, and racial-ethnic composition

Age*	SA-OCS 1998	SAJJ sample	SAJJ sample interviewed	
	(N=1633)	(N=107)	1998 (N=93)	1999 (N=88)
10-12	9%	8%	7.5%	2%
13-14	29	34	36	13
15-16	42	35	34	43
17	18	16	16	17
18-19	0	7	6.5	24
unknown	2	0	0	0
median	14.5 yrs	15 yrs	15 yrs	16 yrs
Gender**	SA-OCS 1998	SAJJ sample	SAJJ sample interviewed	
	(N=1633)	(N=107)	1998 (N=93)	1999 (N=88)
male	78%	79%	80%	80%
female	21	21	20	20
unknown	1	0	0	0
Race-ethnicity**	SA-OCS 1998	SAJJ sample	SAJJ sample interviewed	
	(N=1633)	(N=107)	1998 (N=93)	1999 (N=88)
Aboriginal	13%	12%	10%	8%
non-Aboriginal	83	88	90	92
unknown	4	0	0	0

*SA-OCS data for age is at the date of the offence (median is estimated from the distributions shown in OCS 1999: 114). SAJJ sample data for age is that given in the police report; for the SAJJ sample interviewed, at the time of the interview.

**SA-OCS gender data, from OCS 1999: 112-13; Aboriginality, from OCS 1999: 118.

Table 3.2. Demography of individual, household, and organisational victims

Table 3.21. Victim types

type of victim (N's)	gender of victim in the incident (N's)					
	male	female	mixed*	org		
personal	27	22	11	0	60	67%
personal-occupational	1	6	0	0	7	8
personal-organisational	0	0	4	0	4	5
organisational	0	0	0	18	18	20
	---	---	---	---	---	---
	28	28	15	18	89	100%
	31.5%	31.5%	17%	20%		100%

*Mixed means that a households and organisations were victimised with multiple victims who were both male and female. Some offences may have both male and female personal victims, but the designated primary victim is shown here.

Table 3.22. Gender composition of mixed and organisational victims interviewed

	N's			total
	male	female	not interviewed	
mixed gender	5	9	1	15
organisational (only)	11	6	1	18
	---	---	---	---
	16	15	2	33

Table 3.23. Type of organisation or occupation victimised (includes personal-occupational, personal-organisational, and organisational victims)

Type	all conferences	sample of those interviewed	
	(N=29)	98 (N=28)	99 (N=27)
school	52%	54%	55%
housing trust	10	11	7.5
store or warehouse	10	7	7.5
police	7	7	7.5
hotel or bar	7	7	7.5
other	14	14	15
	---	---	---
	100%	100%	100%

Table 3.3. Victim age, gender, and racial composition

Age	SAJJ sample*	SAJJ sample interviewed*	
	(N=89)	1998 (N=79)	1999 (N=73)
5-9	3.5%	1%	0%
10-12	2	2.5	1.5
13-14	10	9	4
15-16	8	9	15
17	5	4	1.5
18-19	1	1	4
20-29	9	8	7
30-39	20	22	22
40-49	28	30	33
50-59	11	11	12
60+	2.5	2.5	0
	---	---	---
median	35 yrs	37 yrs	38 yrs

Gender	SAJJ sample*	SAJJ sample interviewed*	
	(N=89)	1998 (N=79)	1999 (N=73)
male	51%	51%	51%
female	49	49	49
	---	---	---

*Distributions are for the age and gender of the primary victim *in the incident*. One case had two child victims, a girl 5 yrs, and a boy 8 yrs; the primary victim was coded female. For victims interviewed in 1998 and 1999, in three cases a parent spoke on behalf of their children: two male juvenile victims by a male parent and a female parent, and one female sexual assault victim by a female parent. One case (#203), a female parent spoke on behalf of her son in the conference (he did not attend) and she was interviewed. Thus, in other summaries of the data (Daly 2001a), the gender composition of conference victims and those interviewed is given as 51 percent female, and 49 percent male.

Race-ethnicity	SAJJ sample	SAJJ sample interviewed	
	(N=89)	1998 (N=79)	1999 (N=73)
Aboriginal	5%	3%	3%
non-Aboriginal	95	97	97
	---	---	---

Table 3.4. Victim and victim representatives at conferences

	SAJJ sample	SAJJ sample interviewed	
	(N=89)	1998 (N=79)	1999 (N=73)
victim present at conference? (yes)	74%	77%	78%
VSS* rep present at conference? (yes)	6%	5%	6%

*Victim Support Services

4. Interviews in 1998 and 1999: response rates, length, and elapsed time

Response rates and reasons for interview failure or refusal

In 1998, the interview response rate for victims and offenders was 88 percent; it was somewhat higher in the city than in the country towns (Table 4.1). In 1999, the response rate was 94 percent of those interviewed in 1998. Thus, completed interviews were obtained in both years for 82 percent of the victims and offenders. These are excellent response rates, but it is important to examine the sources of attrition in the sample.

In 1998, an analysis was carried out by SAJJ researcher Liz Mumford of the reasons that offenders and victims could not or would not be interviewed. Mumford identified these reasons:

Gatekeeper: Interview attempts were thwarted by a person (usually a family member) other than the offender or victim. Either the person said "no" on behalf of the offender or victim, refused their permission, or in other ways, made it difficult for the researcher to talk to them directly.

Avoidance: Offenders and victims avoided phone calls, did not return calls, or made appointments and then did not keep them.

Uncontactable: The whereabouts of the offender or victim was unknown or parents could not tell the researcher where the offender was or when (or if) they would be home.

No point: Some offenders, but more often, victims, refused to be interviewed because "there was no point" or they "just wanted to put it behind me" or "there was nothing in it for me".

"Just no": The offenders and victims refused to be interviewed and gave no reason.

In addition to these categories, for 1999, two other reasons emerged: the respondent died in the past year or the interview commenced, but the interviewee got restless and would not continue (see Table 4.2).

The SAJJ group spent considerable effort in securing interviews. For the "avoidance" and "uncontactable" interviewees, repeated efforts were made to track down the offenders or victims. Phone calls or letters were not returned, and home visits did not yield information on the respondent's whereabouts. As shown in Table 4.2, offenders were more likely to avoid being interviewed, rather than refusing outright, whereas victims were more likely to think there was "no point" in the interview. In 1999, victims not wanting to be interviewed did not "want to think about the incident any more" or they remained so aggrieved or angry toward the offender that they saw "no point" in the interview.

Offender sample attrition

Chi-square analyses were carried out on the 107 YPs to determine if there were patterned relationships between key variables and offenders not being interviewed in 1998.¹⁴ These variables were analysed:

¹⁴ Analyses were carried out for both years for offenders and victims. Because attrition is greater in 1998, patterns are stronger, although the same variables emerge in both years, with one exception in the victim analysis. Note that the analyses were carried out for each year separately, that is, the reasons for attrition of the 107 YPs and 89 victims in 1998, and the reasons for attrition of the 93 YPs and 79 victims in 1999.

- YP's age (dichotomised as older (16-17) and younger (10-15))
- YP's sex
- YP's race-ethnicity (Aboriginal or not)
- type of offence (property or violence)
- whether the YP was the primary offender in a multiple offender conference
- whether the primary offender expressed remorse for the offence at the conference¹⁵
- a combined measure of the degree of "restorativeness" in the conference and the degree to which it was fair and managed well¹⁶
- the number of known addresses for the YP in police files
- number of pre-conference offences coming to the attention of police
- pre-conference experience of having a case finalised in court

Of these 11 variables, there were three where a patterned relationship was evident, but just one variable that was significant at or below the .10 level of statistical significance.¹⁷

Aboriginal YPs were less likely to be interviewed (73 percent) than non-Aboriginal YPs (89 percent) (sig. level = .14). Those with three or more addresses on the police file were less likely to be interviewed (76 percent) than those with two addresses (85 percent) or just one address (93 percent) (sig. level = .11). The strongest predictor of being interviewed was the offender's pre-conference experience of having had a case finalised in court. Those with court experience were less likely to be interviewed (74 percent) than those with no such experience (90 percent) (sig. level = .06). These three variables are inter-related. Whereas 45 percent of the Aboriginal youth in the SAJJ sample had a case finalised in court before the SAJJ conference, this was so for 15 percent of non-Aboriginal young people. In further analyses, I found that the likelihood of YP interviews in 1998 was related to gender and race together. White males and Aboriginal females were more likely to be interviewed (91 and 100 percent) than were white females and Aboriginal males (81 and 63 percent, respectively). Thus, the attrition of Aboriginal young people from the offender sample was solely for *male* youth.

To summarise, then, interview declination rates for offenders are related to measures of social marginality. Those adolescents who "resist" conventional society are also likely to resist being subjects of social research. As is the case in criminological research on non-incarcerated individuals, among the most theoretically interesting people in our research studies -- those at society's margins, who have already been caught up in the criminal justice system, and moving about a lot -- are those who are harder to find and, ultimately, who don't want to be found.

¹⁵ In this analysis, the data were of the 89 primary YPs observed in the conferences.

¹⁶ I devised this measure by combining two variables in the conference observation instrument: (1) the SAJJ observer's judgment (from a 4-point scale) of whether the conference "ended on a high, a positive note of repair and good will" and (2) the SAJJ observer's rating of the conference (from a 5-point scale from poor to exceptional). The first measure taps the degree to which there was movement and understanding between victims and offenders towards the "other" in the conference, and the second, the degree to which the conference was fair to participants and the coordinator managed it well. Of 89 conferences, 10 percent were rated very highly, and another 40 percent, good. About 20 percent received a mixed rating, and 30 percent were judged fair to poor.

¹⁷ A significance level of .10 means that the sub-group differences could have occurred by chance in 10 out of 100 cases. While a more stringent significance level of .05 is often used, I chose the .10 level because of the moderate sample sizes.

Victim sample attrition

Chi-square analyses were carried out on the 89 primary victims to determine if there were patterned relationships between key variables and victims not being interviewed in 1998. These variables were analysed:

- victim's age (dichotomised as older (18 and older) and younger (under 18))
- victim's sex
- victim's race-ethnicity (Aboriginal or not)
- type of offence (property or violence)
- whether the offence was a threat to the physical integrity of the victim¹⁸
- whether the victim was injured (using data from police reports)
- a combined measure of the degree of "restorativeness" in the conference and the degree to which the conference was fair and managed well
- type of victim (dichotomised as personal and rest [personal-occupational, personal-organisational, and organisational])
- victim-offender relationship (dichotomised as known [family member, well-known, or casual acquaintance] and not known [stranger or known only by sight])
- whether the victim was present at the conference

Of the 10 variables, there were four where a patterned relationship was evident, and all were significant at or below the .10 level of significance (see footnote 17). Younger victims were less likely to be interviewed than older victims (80 and 92 percent, respectively). Personal crime victims were less likely to be interviewed (85 percent) than other types (97 percent). Crime victims who did not attend the conference were less likely to be interviewed than those who did attend (78 and 92 percent, respectively). Unexpectedly, the conference rating variable was predictive of victim response rates: victims of higher rated conferences were more likely to be interviewed (96 percent) than those in lower rated conferences (82 percent). In follow-up analyses, I found that the conference rating and victim presence variables were independent of one another.¹⁹ Although there were differences in the interview response rates for Aboriginal victims (two of four victims were interviewed) and non-Aboriginal victims (77 of 85 victims were interviewed), the number of Aboriginal victims was too low to draw any inferences. In 1998, victims who knew offenders were less likely to be interviewed (81 percent) than those who didn't (94 percent). But of the 79 victims we attempted to interview in 1999, response rates did not vary by victim offender relationship.

Unlike offenders, victims' interview response rates could be predicted by more variables, which were independent of one another. One cluster is age- and offence-related: older victims of organisational or occupational crime were more likely to be interviewed than those under 18, all of whom were personal crime victims. Another cluster is the salience of the conference and research interview for victims: those victims who did not attend conferences were also less inclined to be interviewed for a research study. A final cluster is related to the

¹⁸ While all violence offences are a threat to the physical integrity of victims, so too are some property offences. For example, in several property damage cases, victims' houses were broken into and trashed. The "threat to personal integrity of victims" variable contained all the violence cases (N=39) and 15 property offence cases.

¹⁹ Of 66 conferences where victims were present, half (33) were judged high or good; and of 23 conferences where victims were not present, just under half (11) were judged high or good.

victims' experiences in the conference, if the SAJJ conference rating can be taken as one indicator of that experience.

In general, offence-related variables did not distinguish response rates for offenders or victims, although victim-offender relations had some bearing on response rates for victim interviews in 1998. For offenders, there was attrition of Aboriginal youth (all male) and those with more exposure to the criminal justice system. For victims, there was attrition of personal and younger crime victims, as compared to organisational and older victims. These differences in the profiles of offenders and victims interviewed (compared to the initial sample) are of interest in understanding how the phenomena we wish to understand -- offenders' and victims' experiences of crime and justice processing -- may have a relationship to the offenders' and victims' interests to be part of a research project or the degree to which they can be located for an interview. Although social marginality of both groups has some bearing on response rates, there were additional factors for victims that are linked to the social relations in the offence and experiences in the conference process.

Despite these documented differences, the response rates achieved in the SAJJ project were very high across the two years. For generalising the results of the interviews to the larger pool of offenders and victims, the interview datasets contain a slightly higher proportion of less criminalised, white offenders, and of older victims of organisational or occupationally related crime.

Length of interviews

Table 4.3 shows the average length of time for the YP and victim interviews in 1998 and 1999. (Recall that face-to-face interviews were conducted with victims who attended the conference whereas phone interviews were conducted with those who did not.) In 1998, the median length of the YP interview was 35 minutes, and in 1999, 45 minutes. The victim face-to-face interviews were, on average, longer: in 1998, the median length was 50 minutes, and in 1999, 65 minutes. For those victims who did not attend the conference, the average length of the phone interview was 28 and 35 minutes in 1998 and 1999, respectively.

Elapsed time

The time between the SAJJ conference and the 1998 YP and victim interviews, and between the 1998 and 1999 YP and victim interviews is shown in Table 4.4. From the conference to the first interview, the median number of days for the YPs and victims was 25 to 33, or about a month after the conference. The median time between the first and second interview was similar for both, 361 to 363 days, or one year. The standard deviations show that 66 percent of victims and offenders were interviewed during a 10-week period in 1998 following the conference (that is, a mean of 4 weeks after the conference plus or minus 3 weeks). For the time between the first and second interview (and removing one outlier), 66 percent of victims and offenders were interviewed during a 3-month period in 1999 (that is, a mean of one year plus or minus 1 month).

Table 4.1. Interview response rates, 1998 and 1999

1998	metro Adel	country towns	total
Interviews to be done in 98			
YP offenders	96	11	107
victims	80	9	89
	---	--	---
	176	20	196
Interviews completed in 98			
YP offenders	85	8	93
victims	72	7	79
	---	--	---
	157	15	172
1998 overall completion rates:	172/196 = 88%		
YP offenders:	93/107 = 87%		
victims:	79/ 89 = 89%		
metro Adelaide:	157/176 = 89%		
country towns:	15/ 20 = 75%		

1999	metro Adel	country towns	total
Interviews to be done in 99			
YP offenders	85	8	93
victims	72	7	79
	---	--	---
	157	15	172
Interviews completed in 99			
YP offenders	80	8	88
victims	66	7	73
	---	--	---
	146	15	161
1999 overall completion rates:	161/172 = 94%		
YP offenders:	88/93 = 95%		
victims:	73/79 = 92%		
metro Adelaide:	146/157 = 93%		
country towns:	15/ 15 = 100%		

1998 and 1999

Completed interview for each YP and victim in both 1998 and 1999:	161/196 = 82%
YP offenders:	88/107 = 82%
victims:	73/ 89 = 82%
metro Adelaide:	146/176 = 83%
country towns:	15/ 20 = 75%

Table 4.2. Reasons that offenders and victims were not interviewed

	1998		1999		both yrs combined		
	YP	victim	YP	victim	total	YP	victim
gatekeeper	3	1	0	1	5	3	2
avoidance	7	2	1	0	10	8	2
uncontactable	1	4	2	0	7	3	4
no point	1	2	0	3	6	1	5
"just no"	2	1	0	0	3	2	1
died	0	0	0	2	2	0	2
incomplete	0	0	2	0	2	2	2
total not interviewed	14	10	5	6	35	19	16

Table 4.3. Length of interviews*

<i>YP Interviews</i>	YP 98 interview (N=93)	YP 99 interview (N=88)
range (in minutes)	23 - 70	25 - 90
median	35	45
<i>Victim Interviews</i>	Vic 98 interview (N=61)	Vic 99 interview (N=57)
range (in minutes)	25 - 100	25 - 130
median	50	65
<i>Victim "No Show" Interviews</i>	Vic NS 98 interview (N=18)	Vic NS 99 interview (N=16)
range (in minutes)	15 - 70	23 - 45
median	28	35

*This is the actual interview time, excluding any time that may have been taken in breaks or interruptions. Victim interviews, for those who attended the conference, were conducted face to face; victim "no show" interviews, for those who did not attend the conference, were conducted by phone. There were some exceptions to the phone and face-to-face conduct of the interviews. Where conference victims had moved to another part of the state, interstate, or were overseas, we conducted the interview by phone; one "no show" conference victim was in prison, and she was interviewed face to face there. For some YPs and victims, we conducted the interview by phone because the respondent appeared more willing to do it that way and less inclined to book an interview.

Table 4.4. Elapsed time, conference to first interview, and first to second interview

YP	conf to YP 98 interview (N=93)	YP 98 to 99 interview (N=88)
range (days)	3 - 91	318 - 450
median	25	361
mean (sd)	27 (17.2)	363 (27.4)

Vic	conf to Vic 98 interview (N=79)	Vic 98 to 99 interview (N=73)
range (days)	1 - 109	301 - 560
median	33	363
mean (sd)	33 (19.5)	366 (36.2)*

*One interview was conducted later than others; when that is removed, the standard deviation settles down to 28.

5. Changes during 1999 and 2000

In July 1999, just as the SAJJ project ended, major organisational changes were introduced in the way in which members of the South Australian Police relate to the conference process. Up to that time, South Australia had 12 to 14 specialist Police Youth Officers (PYO's), whose duties included the referral of files to family conference and participation in the conference itself. The PYO's were attached to about 8 to 10 police units in the Adelaide metropolitan area, and they had responsibilities for coordinating the state's 9 country divisions. (In the country areas, there have been no specialist PYO's. Instead, the officer-in-charge of each police station has acted as the PYO.) Under the new plan, 6 Senior Sergeant positions were created, each attached to a Local Service Area (LSA, or police station) in the Adelaide metropolitan area. These Senior Sergeants have managerial and supervisory responsibilities for the constables and senior constables in the LSA, including oversight on referring files to conference and participating in them.

These changes arose in the context of a broader rationalisation of the South Australian Police, one component of which was to combine community policing with juvenile justice. The new plan is for each LSA to have a group of perhaps 5 to 10 officers, who could be assigned to a conference (among other responsibilities they have in their role). Consequently, there is greater flexibility in scheduling conferences. Those Senior Sergeants who have experience in the conference process can participate in the more serious (or complex) conferences, and they can advise those newer to the conference process on effective ways of dealing with particular cases. This new plan in tasking police officers to conferences was set in motion, although slowly, in middle to late 1999. It has taken a year to fall into place, and as of January 2001, it was fully operational. Although there was a degree of apprehension when these changes were first proposed in 1999, my understanding is that the police and coordinators see them as offering improvements on the former system.

In March 2000, the Adelaide Family Conference Team, Youth Court magistrates and judges, and the Care and Protection Team moved to a new purpose-built Youth Court building.

Located on 75 Wright Street, it is a 5-minute walk to other courts in Victoria Square (Magistrate's, District, Supreme Court, and the old Magistrate's Court [or "Tram Barn"], where the Youth Court was temporarily housed for 2 years, awaiting completion of the new building. The new building is a major improvement over the old one.²⁰ In 1998 and 1999, during the SAJJ research, the YJC's worked in an open-plan environment, with offices on two floors. Working conditions were not optimal: it was often noisy, some offices had no windows, and there was walk-through traffic. With the shift to the new Youth Court building came a renewed sense of professionalism and pride in the work of the Family Conference Team.

6. Advice and assistance from others

As will become evident in Part II, I received assistance and advice from others in conducting the research in 1999. Listed below are the people who helped me in the research design and conduct of the interviews, suggested other resources and ideas, or provided me with copies of their research instruments.

They are Sheila Allison (Youth Studies Australia), Jenny Barga (NSW Department of Juvenile Justice), Lani Blackman (Australian Law Reform Commission), Harry Blagg (Crime Research Centre, WA), John Braithwaite (Australian National University), Heather Chipuer (Griffith University), Justine Doherty (SA Office of Crime Statistics), Richard Eckersley (Australian National University), Toni Flynn (Youth South Australia), Tammy Franks (Australian Democrats, Adelaide office), Andrew Goldsmith (Flinders University), Ross Homel (Griffith University), David Indermaur (Crime Research Centre, WA), Mark Israel (Flinders University), Lisa Kennedy (then Office of Premier and Cabinet, Queensland, now University of Queensland), Toni Makkai (Australian Institute of Criminology), Gabrielle Maxwell (Victoria University of Wellington), Malcolm Mearns (Datacol, Canberra), Ian O'Connor (University of Queensland), Larry Saha (Australian National University), Stephen Smallbone (Griffith University), Richard Sparks (Keele University), Heather Strang (Australian National University), Lode Walgrave (Catholic University of Leuven), and Joy Wundersitz (SA Office of Crime Statistics).

²⁰ The Adelaide Family Conference Team has worked in four different locations since it formed in 1994, although each venue has been on or near Victoria Square. In 1994, the Team worked in buildings (since razed) at the site of the new Youth Court on 75 Wright Street. In 1995, the Team moved to improved accommodation, with separate offices for coordinators and rooms for conferences, on 60 Wakefield Street. In February 1998, at the start of the SAJJ project, the Team moved to the old Magistrates Court building, 2 Angas Street and was based there until March 2000, when it moved to the new Youth Court building on 75 Wright Street. In 1994-95, the Port Augusta Family Conference Team office (with one coordinator) was located in government buildings on MacKay Street; and in 1995, the office moved across the street to the SGIC Building, 9 MacKay Street, Port Augusta. During 1994-95, there was a coordinator (and office) in Coober Pedy (in the far north outback); that office was closed, and the coordinator position was consolidated into a full time position. From 1996 to the present, there have been two coordinators in the Port Augusta office, who service the entire northern tier of the state.

Part II: Research Instruments in 1999

The YP and victim interview schedules were constructed and revised during March and early April 1999. The schedules for the end of research period interviews with the coordinators, police, judges, and magistrates were constructed and revised in May and early June 1999.

During the preparation and revision of the YP and victim instruments, I wrote memos that clarified my thinking on essential research questions and how they could be best operationalised. SAJJ researcher Venables drafted questions for both the YP and victim interviews. The activity of drafting the instruments, revising them, adding and removing questions was a group process, which involved all the SAJJ researchers (Venables, Mumford, and Mann). This had several clear benefits. First, through many revisions, we honed the questions, choosing words that were simple, direct, and as friendly as possible. Second, as we discussed each question item (or set of items), we developed a group-mind about the meaning of the question, where to probe, and what information was most essential. Because all but SAJJ researcher Mann had interviewed the offenders and victims in 1998, we also drew upon our collective knowledge of the differing mindsets and orientations of the offenders and victims we had come to know from those interviews.

The general focus for both the YP (offender) and victim interviews was to determine how the conference and passage of time had affected them a year later. We asked questions that focused on (1) the YP's apology and what it meant to the YP and victim; (2) elements of the agreement, why YP's did or did not complete it, and its effect on them and the victims; (3) the continuing effects (if any) of the crime on victims and the extent to which they were able to put the offence behind them and why; (4) the YP's explanations for why they had been able (or not) to stay out of trouble since the conference; and (5) whether victims and offenders have changed their attitudes toward the other in the past year.

In addition, I was interested to gather a wider set of materials on each group. For both, I wanted to explore the meaning of "punishment" and whether features of the conference process or agreement were understood to be punishment as the respondents understood that term. Relatedly, I wanted to discover which theor(ies) of punishment (or theories of criminal justice response) the offenders and victims thought operated in the conference process. These areas of interest grew out of theoretical arguments I had been developing about the relationship of retributive to restorative justice, and about the meaning of punishment in the context of restorative justice (Daly 2000a, Daly 2000b). Also for both groups, I was interested to tap the degree to which they felt safe where they lived (or, for the organisational and occupational victims, where they worked). For the young people, I was interested to explore features of youth culture, attitudes toward adult authority, and their future aspirations. For the victims, I was interested to learn about their attitudes toward crime policy and whether the conference process had affected their attitudes in any way. In short, while the interviews needed to focus on a set of follow-up questions about the offence and the impact of the conference process, I also wished to take advantage of having a sample of young people and crime victims, who could answer questions about crime, safety, and justice.

One methodological question facing us was whether we should try to interview all the initial group of 107 offenders and 89 victims, or whether we should interview only those we reached in 1998. For example, one option for the YPs would have been to interview the 1998 non-respondents in 1999, but ask them only a limited set of questions about re-offending.

Likewise, for the victims: we could approach the 1998 non-respondents, but ask them only a limited set of questions about their recovery from the offence. Alternatively, we could have tried to interview all 196 YPs and victims, asking them all the same set of questions.

Ultimately, I decided not to include the 1998 non-respondents in the 1999 target sample for several reasons. First, the 1999 interview questions were a continuation of what we had asked the YPs and victims in 1998. For example, we had asked victims whether they felt positively or negatively toward the offender before and after the conference in 1998, and in 1999, we wanted to ask what their current attitude was. Second, I wanted to put time and energy into achieving a very high response rate for the 1999 target sample rather than to put resources into more hard to reach respondents, which the 1998 non-respondents were likely to be.

Like the interviewer stance toward YPs and victims in 1998, the SAJJ group was interested to develop a schedule that was "invitational and conversational" (Ian O'Connor, personal communication) with instruments composed of open-ended and anchored questions.

1. YP interview (Appendix 1)

In devising the 1999 interview, we faced similar problems as in 1998, and we addressed them the same way (see Daly et al. 1998: 45-47). Technically, we needed to complete the interview in 45 minutes or less; otherwise, we risked losing the YP's interest and attention. Although we wanted the interviews to reflect the young people's experiences, as a practical matter, with four people conducting the interviews, they had to be delivered in a comparable "standard" way.

Like the 1998 interviews, all the 1999 interviews were tape recorded (except for those who refused to have the interview taped).²¹ Like the 1998 interview, the 1999 interview schedule contained open-ended questions, which were transcribed by the SAJJ interviewer onto an Excel spreadsheet template. We used the identical demographic items in the 1999 interview as in 1998. Like we did in 1998, we did *not* pay the YPs money for their time or offer them incentives to complete the interviews. It is striking that *none* of the YPs (or victims) broached the idea of being paid for an interview to a SAJJ researcher during 1998 or 1999.

While we drew from a range of different materials in various sections of the interview, two research instruments were especially relevant because they dealt expressly with follow up studies of conferencing and young people. One was the set of instruments used in RISE (RISE research instruments, Year 2) for the follow-up interviews, and the other was the interview instrument used by Gabrielle Maxwell in her study of youth re-offending (Maxwell 1999). I turn to a review of these instruments and how they helped to clarify the priorities for the SAJJ follow-up interviews.

²¹ Of all the face-to-face interviews in 1998, 8 refused to be taped; in 1999, 2 did. All but one tape refusal was a YP; the victim who refused to be taped was also a minor.

RISE (Year 2)

In the RISE project, offenders who had gone to court or conference were followed up 2 years after the conference, and they were interviewed using two booklets. The Orange (cover) booklet, Section A, asks questions about what has happened to the offender in the past 12 months, including major changes in job, schooling, relationships, and family. Then, the interviewer goes to the Buff (cover) booklet, which has 25 pages of questions concerning the young person's involvement in crime in the past 12 months. After going through the Buff booklet, the interviewer then returns to the Orange one.

Part F in the Orange booklet asks a brief set of questions on conference fairness and some hypotheticals on re-offending that had been used in the RISE first interview. The next unlabelled section asks about the elements in the agreement.²² Parts G and H then ask about the offence that led to the RISE conference (or court) and the ways that other people have treated the offender, with a focus on the offender's familial relations. The final section asks a set of demographic questions.

What strikes the reader is that the interview is largely focused on re-offending. In part, this is a function of the research design: the interview is not designed to ask about the effects of the conference process on young people.²³ Rather, it is *generically designed* to determine whether those *who go to court or conference* feel differently about themselves and whether others treat them differently 2 years later. (Note, as well, that the Orange booklet is designed not only for youth justice cases, but also for drink driving offenders of all ages.) So, for example, there are no detailed questions about whether the offender feels s/he has "made amends" to the victim for the crime in completing the agreement, nor whether the apology process had an effect on the young person. All of the items are close-ended; there is no qualitative dimension to the study of offenders in the RISE project.

Reading these booklets, especially the Buff booklet on self-reported involvement in crime, clarified for me what I wanted to do in the SAJJ follow-up interviews. Foremost, I did not wish to lose the young person's interest in going through an extensive list of questions about offending and the details of the offences. Rather, in analysing offending, I would be content with using official police records in a state that has a high "touch rate" of police contact with juvenile lawbreakers (Ian O'Connor, personal communication). I would use the interview instead to ask the young people *why* they had "stayed out of trouble" or had "gotten into trouble" in the past year. Asking the *why* question seemed more important than the details of *how much* the offender had been involved in detected and undetected crime.

²² This 6-page section goes through each of the kinds of things that can be in agreements or sentences (community work, compensation to the victim, money to charity, fines and other court penalties, and other outcomes). The interviewer asks the respondent "is that how you remember it?" and "how much did you do"?

²³ The exception to this pattern are four questions in Section F (items 19-22) that ask if the conference (or court) helped to make up for what you did or to repay society.

Maxwell study of re-offending in New Zealand

As reported in Maxwell (1999), there were 162 young people aged 14-16 who were in their original sample of conferences in 1990-91. Of the group of 162, interviews were completed with 108 young people during August 1996 through December 1997, or about 6 to 6-1/2 years after the original sampled conference (Maxwell and Morris 2000). The researchers structured the interview to focus on three dimensions of the young person's (now adult by the time of the interview) biography and its relationship to re-offending: early life experiences, experiences with youth justice processes (in particular conferences), and "subsequent life events" (Maxwell and Morris 2000: 94).

Their 12-page interview instrument, which is composed mainly, although not exclusively, of close-ended questions, focuses largely on the person's early life experiences, including family and school experiences. One page is devoted to items about contact with the criminal justice system, with an open-ended question at the end of the section, which asks the respondent to "look over the past 5 years or so" and consider "what has led you to stop offending" (or to "keep offending"). Two pages of the interview are devoted to the respondent's memory of the family group conference. Unlike the RISE follow-up instrument, Maxwell and Morris's questions *do* target the impact of the conference on the respondent, including whether s/he understood the victim's point of view, really felt sorry about their offending, and thought s/he was able to "make good the damage" caused. To analyse re-offending, Maxwell and Morris used court records to determine the number of convictions.²⁴ One potential problem with this study is how accurate respondents' memories would be of conferences held 6 to 6.5 years ago or how much they could recall from the encounter.

Both the RISE and Maxwell and Morris follow-up studies centre on explaining re-offending. In constructing the SAJJ 1999 YP interview, I wished to make re-offending a focus, but just one focus of the interviews. Like Maxwell and Morris, I saw little benefit to asking many, many questions about self-reported involvement in crime; official records would suffice. I liked Maxwell and Morris's questions on relational understanding, feeling sorry, and making good the damage, but I felt that the items needed to be expanded.

Highlighting the areas of the YP 1999 interview, I move through each section, noting the source and justification for the questions asked.

Interview start and Section 1

At the start of the interview, we reinforced the obligations we had to the YP in conducting the interview: the scope of questions asked, assurances of confidentiality, and voluntariness,²⁵ and to seek permission to tape the interview. Because we had secured written consent from

²⁴ It is not clear what is contained in these New Zealand court records nor how they were coded. In my work with Hennessey Hayes on re-offending (Hayes and Daly 2001), we find that court "conviction" is a poor indicator of re-offending for juveniles in South Australia, who enter guilty pleas, but no conviction is recorded. Therefore, an analysis that uses convictions as the measure of re-offending would undercount offending in South Australia by a large degree. For New Zealand and adult court records, however, this may be a different matter.

²⁵ Recall that two interviews were incomplete (in one, the YP couldn't remember anything at all about the conference, and in another, the interviewer could not hold the attention of the YP; both were Aboriginal males). Of the completed interviews, there was one in which the YP said she didn't want to answer any more questions, but this occurred at the very end of the interview (Section 8); hence, the interview was deemed complete, with missing data on Section 8, pp. 18-20 of the YP questionnaire.

the YP (and their parent or caretaker) in 1998 to be part of the study, it was not necessary to again ask the YP to sign a consent form.

Section 1 contains the demographic questions, asking whom the YP is living with now, what they are doing now, and whether they were victimised in the past 12 months. These questions (and associated coding categories) are identical to those we used in the 1998 interview. A new question was introduced in this section. Item 1.09 asks if there "have been any major or dramatic things that have happened to you since the conference?" This question is akin to items in the RISE and Maxwell instruments: RISE begins with a section on "things that may have taken place in your life over the last 12 months" (RISE orange cover instrument, p. 4), and Maxwell and Morris's interview asks how things have been going for the respondent, and what significant events in the areas of family, schooling, and work have occurred in the past 5 years (pp. 1-2). I considered but rejected asking a detailed set of questions about what had happened in the past year. It was more important to know what seemed significant to the young person, in part to set a sympathetic and friendly tone for the interview, and in part, to learn what was on their mind. Answers to this question included such things as getting a new girlfriend, a grandmother dying, and a parent in hospital.

Section 2: conference memories

In this section, I was interested to determine how good the respondent's memory was of the conference. Did they remember anything? And what did they remember? These open-ended questions were designed to elicit the first memory of the conference, and then depending on the respondent's answer, to follow it up. If the first memory was of something positive, the follow-up question asked if they remembered anything negative. This section served several purposes: not only did it elicit information about what the YP remembered, but also it moved the YP to mentally focus on the conference. Because the next section focused on the apology sequence in the conference, we needed to jog the YP's memory. If the YP did not seem to recall anything or had a hazy memory, the SAJJ interviewer produced a map of the conference, showing the people who were there.

We were unsure how well the YP would remember the conference. In conducting the interviews, we learned that almost all the YPs could immediately recall something about the conference: less than 10 percent initially said they couldn't remember anything. However, when prompted to recall what happened, all were able to do so. One exception was a YP who could not remember apologising to the victim in the conference.

Section 3: the apology

A section of 4-1/2 pages is devoted to the apology, why the young person decided to say sorry, whether a verbal apology is different from a written apology, and for those who did not apologise, why. The questions were initially drafted by SAJJ researcher Venables. The section is long because there are different contexts in which apologies take place, and these needed to be structured into the interview. There were two major sub-groups to consider: (1) conferences where victims were and were not present and (2) conferences (or outcomes) that did and did not include apologies. We had some information before the interview about the apology, but our information was incomplete. We knew the YPs who had to write an apology letter as part of the agreement because we had copies of the agreement and whether the YP completed it. We also knew if the YP said sorry to the victim before the conference because this was often stated in the conference or known to the police. Many (although not all) agreements also record if the YP apologised to the victim at the conference, but here the data were incomplete, and we needed to verify whether the YP apologised to the victim at the

conference.²⁶ Depending on whether the YP apologised, what kind of apology it was, and whether the victim was present in the conference, the interviewer moved to different boxes in Section 3.

The majority of YP's do apologise to victims at the conference, and thus the first set of questions focused on why they did so, first in their own words, and then in a set of anchored questions.²⁷ We were then interested to determine what effect the YP hoped the apology had on the victim, and what effect it may have had on the YP. For those with both verbal and written apologies, we were interested to know whether the YP saw them as similar or different experiences. For the group with no known apology, but the victim was present at the conference, we asked the YP why s/he decided not to say sorry, first with an open-ended question and then with close-ended items. The last two apology boxes (pp. 7-8) were for those conferences in which the victim was not present. The typical outcome in these conferences is for the YP to write an apology letter. The questions in that box are nearly identical to those we asked the YPs in conferences where victims were present.

The theoretical question for restorative justice (and conferences, in particular) is whether the YPs in fact *are sorry* for the harm they caused to victims or whether they are going through the motions to please others or to not get into further trouble. We asked the YPs, "What was the main reason you decided to say sorry ...?" to identify those who were *really sorry* from those who weren't. All of the apology questions worked well in the interview process.

Section 4: bad person or bad act?

This section taps Braithwaite and Mugford's (1994) arguments about reintegrative and stigmatising shaming, and it extends on Maxwell's (1999) finding concerning the effects of being made "to feel a bad person" at the conference for subsequent re-offending. The question was initially proposed by SAJJ researcher Venables. In its final form, the statements ask the YP what other people may think of him/her now: "You did a bad thing because of who you are" (bad person) or "You're OK, but what you did was bad" (bad act). The other people included the conference coordinator, the police officer at the conference, the YP's main supporter (normally a parent), the victim (if the victim was present), and the YP him/herself.

²⁶ The Briefing Observation Protocol (BOP), the SAJJ conference observation instrument, contained an item about the degree to which the YP apologised to the victim. The observations were only of the primary YP's apology; we did not record the verbal apology of other YP's in the conference. There were discrepancies between the BOP, the police, and coordinator surveys about the apology, which we could not resolve before conducting the interviews in March 1999. Following the fieldwork, when working on the datasets, I attempted to reconcile the YP's and victim's memory of the apology, along with that in the BOP, police, and coordinator surveys, but from time to time, it was difficult to slot cases into neat pigeonholes. For example, in a case of bullying in the schoolyard, the YP apologised to the school principal immediately afterwards, but never apologised to the juvenile victim, who did not attend the conference. To the YP, he had apologised, but to the actual victim, he hadn't.

²⁷ These questions were not confined to verbal apologies at the conference because a small number of YPs may have apologised after the conference or only written an apology letter, even though the victim was present at the conference. We decided not to get too hung up on the minutiae of what kind of apology and where it took place, except in those cases where the YP gave both a verbal and written apology. Written apologies are normally completed within a week of the conference. Of the 107 YPs, there was no known apology for 9 percent; 6 percent said sorry to the actual victim before the conference (an additional 2 percent apologised to a school principal but not the direct victim), 41 percent gave a verbal apology to the victim at the conference or as part of the agreement after the conference, 18 percent gave a written apology only, and 24 percent gave a verbal apology before or at the conference *and* wrote an apology letter.

Section 5: the agreement and compliance

This section examines the conference agreement: what the YP agreed to do, whether they completed it, whether they received any support in attempting to complete it, and their attitudes toward completing the agreement for, among other things, "making things right" for the victim. One of the benefits of conducting research on conferencing in South Australia is that there is excellent documentation of conferences by the Family Conference Team and the Office of Crime Statistics. The Family Conference Team gave the SAJJ project copies of the agreement and whether it was completed on the due date, and Office of Crime Statistics publications provide aggregate data on how frequently agreements are complied with in any given year.

Several discretionary judgements can occur in deciding whether an agreement has been completed. The simplest and most frequent outcome is that the agreement is completed by the YP, and the YP did what was expected. More taxing from a research point of view are the less frequent and less simple outcomes. These include:

- (1) The YP did not really complete the agreement (such as doing hours of community work), but the fault lies not with the YP, but with the coordinator who did not organise the work.²⁸
- (2) The YP did not complete *portions* of the agreement, but completed part of it, and the rest was waived.
- (3) The YP did not complete all or part of the agreement and was breached.

Outcome (1) can be tricky for those YPs who *know* that they didn't do anything for the agreement, even though the legal classification of their case is "completed". Furthermore, when we interviewed victims in 1999, we learned that while the agreement was officially deemed "completed", the YP didn't do what s/he was supposed to. Outcome (2) is not a problem from the YP's point of view because s/he fulfilled part of the agreement, but it can be a problem from the victim's point of view because s/he may feel that the offender didn't do enough or didn't "really" complete the agreement. What distinguishes Outcomes (2) and (3) is the discretionary judgment of the police officer (typically made in consultation with the coordinator) as to whether the YP should be breached or not.²⁹ Further complications can arise in "completing the agreement" when the YP is supposed to write a letter of apology, but the letter that the victim receives is not sincere or denies the offender's culpability. Thus, the SAJJ project is finding that the official data on completing agreements may somewhat overestimate the degree of *meaningful compliance* from the victim's viewpoint.³⁰

In preparing each interview, we checked the record for each YP on what was agreed to at the conference and whether the YP had complied. This information was then put on the

²⁸ While coordinators may ultimately be responsible for organising community work in some agreements, my view is that YPs (or their family members) should be seen as partly responsible: they could have taken a more pro-active stance in following through with the spirit of the agreement rather than waiting to see what happened.

²⁹ The decision to breach or waive originates with paperwork generated by the YJC, which is passed on to the police officer for action. In practice, the two typically talk about the case and arrive at the decision mutually.

³⁰ South Australia Office of Crime Statistics (1999: 126) data on compliance for conferences in 1998 shows that YP agreements were completed or waived in 85 percent of cases, and this is the case in the SAJJ YP sample. But in the 1999 sample of 73 victims, the percent was somewhat lower, 80 percent, and this does not include victims who said the apology letter was insincere. Therefore, while official data and the SAJJ YP data are in agreement, it is the victims' perspective on compliance that is of interest.

interview schedule so that we could tick off the information we had and check this against what the YP remembered. We did not conduct interviews with either the YP or the victim until after the due date of the agreement or when a decision was made on whether to breach the YP.³¹ For the victims interviewed in 1999, the agreement time periods ranged from a day (for those YPs who only apologised at the conference) to 365 days; the median was 90 days. In addition to asking questions about why they did (or did not) complete the agreement, whether they received positive feedback in completing the agreement (or if anyone cared that they didn't), and how they felt about completing it (or not), we also asked the YPs questions about their experiences doing community work and whether they believed their attendance at programs such as "Straight Talk" (where prisoners talk to young people about what prison is like) and the Fire Safety Program was worthwhile.

Section 6: getting into trouble and staying out of trouble

During the field research in 1998, I had been working with Senior Sgt Wardrop of the South Australian Police on devising a research plan to study re-offending of the SAJJ sample. Two passes of police data were carried out: the first on 9 December 1998 and a second on 21 March 1999. The second was made to ensure that we had the most up-to-date information on post-conference offending before we began the interviews. SAJJ researchers Venables and Mumford went through the police data, assembling a spread sheet for each YP, which showed what offending and legal interventions had happened since the conference. This spreadsheet was used by the SAJJ interviewers to complete the relevant Introductory Statement (A or B).

Statement A was read to those YPs for whom we had evidence of their having committed a post-conference offence. These YPs, who had been in "official trouble", then answered the questions in the "Getting into Trouble Box" (p. 15). Statement B was read to those YPs for whom we had no evidence of their having committed a post-conference offence, at least up through 21 March, although they might have done so after that date. The screen question for this group needed to be asked directly, but deftly.

I have two different sets of questions about re-offending, and I need to find out which to ask you. My notes show that since the conference, you've not been in any "official trouble", that is, not been formally cautioned or gone to another conference. Now I don't want to know any details, but since the conference, have you done anything illegal, but not been caught for it? (SAJJ YP 1999 Interview, Intro B, p. 13)

This introduction could capture both those who have been in official trouble after 21 March as well as those who have not been caught.

Also in the introductory material, we wanted to identify those YPs who had ever had a matter finalised in Youth Court at any time in their lives. While we had good police data on this, court experiences might have occurred in another jurisdiction or some time after the police pass of data on 21 March 1999. For those with any experience of a case finalised in court, the YPs were asked questions about the relative merits of going to court or conference (Court Box, p. 16).

³¹ This explains, in part, the outlier date for one victim in December 1999. There was an extension on the agreement for the YP; the YP didn't fully pay the compensation, and it took several months for the paperwork to go forward to breach the case, and the victim was on holidays and then on sick leave, delaying the interview further.

Staying Out of Trouble

The Staying Out of Trouble Box began with an open-ended question, asking the YP "So why do you think you've stayed out of trouble?" That was followed by asking if anything had happened in the conference that helped them to stay out of trouble. We were also curious to know if there had been opportunities to get into trouble, but the YP had resisted them. Then, we asked a set of close-ended questions about *the degree of importance of a set of reasons* for staying out of trouble. We revised this list many times to (1) get the language right and (2) relate the questions to those in the Getting Into Trouble Box. The final items drew from criminological theories that would make sense to young people and their experiences (that is, theories explaining crime at the social-psychological level such as learning, social control-bonds, self-control, and personal controls). They also tapped the degree to which various kinds of legal deterrence (police, conference, having a criminal record) affected their decision-making. The items and the associated theoretical basis are as follows:

- not worth the hassle with the police (police deterrence)
- hang out with people who don't get into trouble (social learning, peer group)
- family gives you help and support (social control-bonds [attachment])
- want a good future for yourself (future-oriented; social control-bonds [commitment])
- busy doing other things (social control-bonds [involvement])
- won't steal something you want but can't afford (self-control; personal controls)
- don't want to attend a family conference (conference deterrence)
- don't want to face a victim (conference deterrence)
- don't want criminal record (future-oriented; legal deterrence)

Because all of the reasons may be similarly important, we then asked the young person to pick two, and then to pick one of the two.

A longstanding question in the criminological literature is the degree to which informal social control and the good opinion of others inhibits lawbreaking; and the point at which formal social controls and the threat of legal deterrence loom larger in an individual's life. It is generally recognised that people are law-abiding not because of the law but because of other informal social controls. As people "drift" into lawbreaking, the threat of legal deterrence becomes more salient. The conferencing idea straddles the informal and formal social control continuum in that it engages informal social controls (family and significant others in the YP's life) in a formal legal process. How, then, do the young people see this dichotomy?

We asked them what they thought kept them out of trouble more -- what family and friends thought of them -- or what the police and courts could do to them. Because questions like this can easily be answered "both", we pushed the young people to pick just one, permitting the answer of both only after a probe of "both equally"?

The role of drugs and alcohol as precipitants of getting into trouble was explored by items in both in the Staying Out of and Getting Into Trouble Boxes, by asking the YPs how often drinking alcohol or using drugs got them into trouble with anyone--not just police, but also family and friends. The SAJJ group spent considerable time trying to determine how many items, and in what form, ought to be devoted to the impact of alcohol and illegal drug use on lawbreaking. We reviewed an instrument developed by Toni Makkai for the Illicit Drugs and Property Crime survey of prisoners in Queensland (Makkai 1999). We adapted from several items in that instrument (p. 10) for the reasons that people become involved in crime, including "the group I hung around with", "I needed money", and "I did it for kicks".

Getting Into Trouble

In developing items for the Getting Into Trouble Box (and Section 8, see below), in addition to items from Makkai, I drew from David Indermaur's (1994) study of prisoners and probationers in Perth, and from the questionnaire he used in the study of public attitudes toward crime. From his sample of 53 offenders, he found that the main reasons that offenders gave for lawbreaking were "money (26 percent) and drugs (28 percent)" (p. 143). For 19 percent, the reasons were: "I was angry", "I was having problems with my family", and "I wanted attention". For another 17 percent, the reasons were age (being youthful), boredom, and wanting to be accepted by friend, with 10 percent giving other reasons (p. 143).

The sequence of questions in the Getting Into Trouble Box began with an open-ended item, "Since the SAJJ conference in [month in 1998], why do you think you've gotten into trouble again"? This question was followed by close-ended questions about *the degree of importance of a set of reasons* for getting in trouble. Some items are comparable to those in the Staying Out of Trouble Box, whereas others focus on the benefits or excitement of lawbreaking. These items and their theoretical basis are as follows:

- people you hang out with (social learning, peer group)
- not enough help and support from family (lack of social control-bonds [attachment])
- it's fun: enjoy kicks (pleasures of crime [Katz 1988])
- boredom: not much else to do (lack of social control-bonds [involvement]; neutralisation of moral values [Matza 1964])
- will steal when can't afford something (lack of social control-bonds [belief]; situational; low self-control)
- get angry easily (low self-control)
- you don't look for trouble, it finds you (labelling; neutralisation of moral values)
- police hassle you (labelling; neutralisation-sense of injustice [Matza 1964])
- don't care about a criminal record (lack of social control-bonds [belief]; neutralisation-sense of injustice)
- family hassles you (lack of social control bonds [attachment]; labelling)

There are more theories available to explain crime than conventionality, and hence it would be possible to identify more theories (or concepts) that could be associated with each item. The theories can be analytically packaged in several ways, but Salmelainen's (1995) set of five factors is useful. These are developmental factors (school and family); lifestyle (employment, drug use, peers, reasons that the young person gives such as boredom and for the excitement); attitude and perceptual factors (perceptions of impact of the crime on themselves and others); risk and punishment (perceptions and experiences with formal deterrence), and criminal history (trajectory of offending). Like the Staying Out of Trouble Box, we asked the YPs what they thought were the two most important reasons for why they got into trouble, and then to pick one of those. Then, shifting the frame of reference, we took verbatim from a question that Indermaur (1994) asked his sample of prisoners and probationers, "What kind of thing would need to happen to stop you offending?"

As Matza (1964/1990) has noted, adolescent lawbreakers should not be viewed as different from non-lawbreakers because they engage in law-abiding behaviour most of the time. One way to view lawbreaking behaviour, then, is with the evocative concept of "drift", which captures a degree of unpredictability in whether an adolescent will offend in one situation,

but not in another. We posed a series of questions to those in the Trouble Box about those situations when they decided *not* to get into trouble, that is, when they decided to walk away from trouble. The items on the list are similar to those in the Staying Out of Trouble Box: peer group, involvement in conventional activities, and formal deterrence.

This approach to understanding young people's reasons for getting into trouble (or not) worked well. The concept of getting into trouble is a good one from the young person's point of view: it is partly descriptive of having done something wrong, but even more, it is descriptive of *the consequences* of having done something wrong. The state of "being in trouble" lasts much longer than the time it takes to do something illegal, and thus, the concept depicts the situation the young person is in.

One item in the Staying Out of Trouble Box caused some problems: item 6.28 about not stealing something when you can't afford it. For those young people who said such things like "I would never steal", they were uncertain how to answer the question. Because they never stole anyway, the item was not an important or salient reason for staying out of trouble *or* because they never stole, it could be construed as a very important reason for staying out of trouble. Recall from Indermaur's research that the prisoners and probationers said that money was one of the major reasons given for committing crime. But for those young people who say they don't steal, it is uncertain how one asks about how *the lack of money* affects their behaviour.

Conference and court comparison

While the SAJJ project did not compare young people who went to court with those who went to a conference, we were able to ask a portion of young people who had been to court to compare their court and conference experiences. The Court Box contained items on knowledge of legal rights, amount of procedural justice (had a say, treated with respect, process was fair), understanding the consequences of past and future lawbreaking (how behaviour affected others, felt sorry for the victim, what would happen if got into trouble again, think twice about re-offending), the legitimacy of the legal process (felt "cool", whole thing a joke), and the meaning of the sanctions imposed (punished more in conference or court). All of these items worked well in the interview.

Section 7: punishment and restorative justice

From my preliminary research on conferencing in Australia (Daly 1996), I had become increasingly sceptical of restorative justice advocates' method of framing restorative justice as oppositional to retributive justice. In a series of conference papers (Daly 1998, 1999), I argued that this oppositional framing was not accurate in practice. I became increasingly interested in the related oppositional theme put forward by advocates that retributive justice was about "punishment" whereas restorative justice was about "repairing the harm" not punishment. I challenged this too-neat dichotomy, proposing that retribution and punishment -- broadly defined to include received censure -- were necessary for a restorative process to occur or unfold (Daly 2000b). In presenting these ideas to colleagues, it became clear to me that the idea of "punishment" meant a variety of things to them, but as importantly, most did not want to associate restorative justice with the word *punishment*. This is because the word denotes actions that they, as academics and practitioners, did not want to be associated with.

More acceptable words were "consequences" or "sanctions" for acts, not the dreaded "P" word.³²

I was curious to know, then, how the SAJJ sample of young people (and victims) understood the concept of punishment and if they would characterise the conference process or outcome as "punishment". Section 7 begins with an open-ended question, asking the young people, "what does punishment mean to you?" This is followed by a set of questions about whether certain features of the conference process (having to go to the conference, face the victim, having to describe what you did) and conference outcome (having to do the agreement) were a type of punishment or not. Then, in the next set of questions, a list of things that can be in agreements was read, and for each, we asked if it was a type of punishment. These items were apologising to a victim, paying compensation to a victim, doing work for a victim or community, having a curfew, and being banned from seeing friends or hanging out with some friends. They also included what would be seen as things that "helped" the young person, even if they were imposed: having to attend school, having to go to counselling, having to go to the Straight Talk program, and having to see a JPET worker (JPET stands for Job Placement and Employment Training; workers talk to young people [in trouble or not] about job skills training and accommodation).

The initial open-ended and close-ended items worked well, although it was clear that just as academics have varied definitions of punishment so too do young people and victims. The follow-up questions were more difficult for the YPs to answer. Depending on what they said in the list of close-ended items, we asked them why on the list they said that some things were punishment and some not (or why they thought all were types of punishment or not). This "why" question -- as most such *why* questions in the YP interview -- can be hard for young people to answer.

Section 8: last section

This final section had a mix of content areas: the YP's feelings of safety in their neighbourhood and home, their perceived likelihood of victimisation in the next year, impact of the research on them, what they thought the conference was *for*, and how they would have handled their case if they "were in charge" and "there were no adults around".

For their orientation to neighbourhood, the first set of items was adapted from Heather Chipuer's Neighbourhood Youth Inventory on how adolescents think about their neighbourhood (Chipuer et al. 1999). The items we chose tap three dimensions of neighbourhood experience: activity (8.02, 8.04), safety (8.01, 8.03, 8.05, 8.06), and friendships (8.07). (The Inventory has a fourth factor, "support", which we did not include.) The safety in the home items tap the degree to which there are arguments and physical fights in the young person's home, and the degree to which the young person generally feels safe and likes living where they do. I wanted to include these items because except for questions

³² Elsewhere I consider why the word *punishment* inspires this reaction, especially in some middle-class professional workers (Daly 1999: footnote 3). Briefly, my argument is that one consequence of the "civilising process" is not only to privatise punishment or to keep it "out of view" (Elias 1939/1978), but perhaps by the end of the 20th century, to excise the word from the vocabulary of criminal justice decision-makers and what they believe to be their *intentions* in the criminal process. I am not persuaded by arguments by Walker (1991) and others that the stated *intentions* of justice decision-makers are adequate in depicting criminal justice sanctions as "punishment" or "non punishment". Other philosophers such as Lucas (1993) focus on the character of punishment (significant burden or imposition on an offender), not the intentions of decision-makers. My views are in line with Duff (1992), who argues that reparative justice outcomes could be viewed as alternative punishments, *not* alternatives to punishment.

asked in 1998 and 1999 about whether they had been a victim of crime or had lived on the streets (even for a short period of time), we had little information about the degree to which the YPs were exposed to victimisation and felt secure in their environment. There is debate about the strength of the relationship between child maltreatment and juvenile delinquency (Smith and O'Connor 1997). While the SAJJ project did not explore the young person's experiences growing up, these items can describe the YPs vulnerability to criminalisation and victimisation.

The items for the likelihood of victimisation adapt from Indermaur's (1990) method of asking the question in his survey of Perth residents. I found the approach he took better than the general "fear of crime" question that has been used for several decades in the United States in Gallup polls (see, e.g., *Sourcebook of Criminal Justice Statistics 1997*: 121).

In the initial stages of preparing the interview, I was interested to include items that tapped the young person's attitudes toward society and how they viewed their present and future. My aim was to compare the SAJJ sample responses with those of general surveys of the Australian youth population. In addition to the people cited above, I reviewed research by Richard Eckersley (1996, on adolescents' attitudes toward the future), Larry Saha (1997, on adolescents' future job aspirations and expectations), the Australian Democrats (undated, bi-annual survey on youth views), and the Australian Law Reform Association (*Seen and Heard* 1997, a survey on adolescents' understanding of legal processes). I also considered using items from the Rigby (1982) scale of Attitudes towards Institutional Authority, which has been used in studies of Australian tertiary students to determine attitudes to the police, the army, the law, and teachers. Ultimately, after reviewing a variety of articles and instruments, I decided that if I included a respectable section on youth attitudes, the interview would become too long and unwieldy.

Item 8.25 sought to determine if there were SAJJ research or researcher effects on the young people. The set of questions asking what the conference was *for* (8.26-8.31) aimed to elicit the theory of criminal justice response that the young person believed was operative in conferencing: rehabilitation, punishment, helping a victim, and deterrence. These items can be analysed in conjunction with those in Section 7.

The final question attempted to end the interview on an upbeat note *and* to determine what the young person's own sense of justice would have been in handling this case. Would s/he handle it similarly or differently than what had occurred? Would s/he want to see the matter handled by a conference?

The YP interview was pre-tested on 31 March 1999 with a young person who had been in a conference in January 1998 (a non-SAJJ conference). Two days later, members of the SAJJ group and I listened to the tape of the interview. This group activity was important not only in revising the instrument, but also in listening to how another person conducted the interview. In 1998, I listened to the tapes of the SAJJ researchers individually, providing feedback on style and approach, but I discovered in 1999 that it was preferable to have all the members of the SAJJ group listen to others' tapes. When advice was offered on how to do things better, it was accomplished along the lines of a peer group, which helped everyone feel more relaxed and receptive.

2. Victim interview (Appendix 2)

While the YP interview was taking shape, we began to draft the victim interview.

We reviewed two especially relevant texts on victims and the criminal process: Joanna Shapland et al. (1985) on violent crime victims' experiences in two English cities, and Julie Gardner's (1990) study of South Australian victims of crime. Both researched victims' experiences with crime and their attitudes toward criminal justice using a longitudinal design. A common finding in both studies is that victims receive attention mainly at the initial stage of police response. Victim satisfaction at this early stage is high, but erodes thereafter, as victims become less important to the justice system. Studies show that victims want more information about their case as it moves through the system, including whether the offender was caught and how they were dealt with. This desire for more information about the case was also found in Edna Erez et al.'s (1994) study of Victim Impact Statements in South Australia.

From Maxwell and Morris' (1993) research on family conferencing in New Zealand, we learned that of all groups in the conferencing process, victims were the least satisfied with what occurred. In part, some had hoped to receive more material compensation, and in part, they saw the process as being in the service of offenders more than victims.

The RISE project interviewed victims 2 years after their RISE case was dealt with by conference or court. In a 17-page booklet (RISE project, Victim Questionnaire, Year 2) pages 2-6 have items concerning the victims' current feelings about how their case was handled and their current attitudes toward the person who victimised them, as well as items concerning their attitudes toward offenders more generally and opinions concerning the most effective policies in dealing with lawbreakers. A substantial section (pp. 7-12) then lists about 30 items, asking for each if the victim was "upset" and "recovered". The list ranges from physical injury, loss of property, legal costs and insurance problems to a variety of psychological consequences such as loss of dignity, loss of trust, and feelings of anger and fear toward the offender. The interview concludes with general items about victims' sense of security and control over their lives. Like the RISE YP interview, the items for the victim interview were constructed to be relevant to both court and conference victims. Thus, the *particular* features of conferences and their impact on victims were not explored in depth because the research focus was on comparing victims' experiences at court and conference.

Few of the SAJJ 1999 victim interview items drew on specific items in the RISE Year 2 victim instrument, but there were shared substantive areas and conventions. One was asking the same questions a year later. We did this in asking victims to "rate their feelings toward [the YP] today", feelings of anger, being frightened, and feeling sorry for the YP. Following that set of items (items 6.65 - 6.67), we asked two questions that adapted from RISE item 40 (p. 7) about whether the victim hoped the YP would suffer the same harm that the victim did, although we used a passive construction in the item, rather than making the victim the actor in "doing harm" to the YP (as stated in the RISE instrument). We wanted to take a step beyond the RISE approach in eliciting information on victim recovery. Rather than *describing* the victim's state, with a list of items, we also wanted *to determine why* the victim may (or may not) have fully recovered from the incident.

The structure of the victim interview followed a similar ordering as that used in the YP interview: Section 1 on demographics, whether anything "major or dramatic" occurred in the past year, and victimisation; Section 2 on conference memories; and Section 3 on the

apology. At the end of Section 3, victims were asked to give their impression of the YP as "being a bad person" or "committing a bad act", the same item as that in Section 4 of the YP interview. Victim interview, Section 4, centred on how the offence was currently affecting the victim, including an update on financial costs of the offence and whether the victim was pursuing an insurance or compensation claim; and Section 5 focused on the agreement. The long term effects of the offence on victims and whether they have recovered (or not) from the incident was explored in Section 6, with that section also examining the victim's attitude toward the young person, conferencing, and the criminal justice system. Like the YP interview, Section 7 focused on punishment and restorative justice. Section 8 contained a potpourri of items, which tapped victims' ideological positions toward crime control, their judgments of how well the criminal justice system was working, their feelings of safety in the neighbourhood, and how likely they believed they would be victimised in the next year.

Because there is similarity in the content of the sections and items, I shall comment mainly on parts of the victim interview that differ from the YP interview.

Section 1: demographics

A challenging feature to interviewing victims of crime is their diversity: some are just 14 years old, and others 55; some are organisational victims whose school windows were broken in the evening whereas others are personal crime victims, for whom a family member's gravestone was smashed. For some, then, the offence is an extremely emotional one, and for others, the offence is written off as an organisationally routine one. Another major difference among them is that some had attended the conference and met the offender, and others had not. Like the 1998 interviews, we had two kinds of victim interviews: a face-to-face interview for those victims who attended the conference, and a phone interview for those who did not attend ("no show victims", described in the next section).

Organisational and personal-organisational victims are distinctive from other victims in that their household situation is not germane (indeed, some victims would find these questions intrusive). From the 1998 victim interviews, we learned that an organisation's experience with victimisation was so frequent that it didn't make sense to ask about that. Thus, SAJJ researcher Mumford devised a set of "Replacement Questions" for Section 1 for the organisational and personal-organisational victims (Box 1). Mumford proposed other modifications to the conduct of the interview, as well (Box 2). For example, it made little sense to ask organisational victims a long set of questions about whether they (as individuals) had recovered from offence or not.

Box 2: Instructions for organisational, personal-organisational-occupational victim interviews**Organisational only**

1. Complete Replacement Section 1 for organisational victims (substitute for pp. 2-3). Go to Section 2.
2. Section 4. Go straight to Q4.10. If respondent answers “not at all” *and* there were no harms from last year, go to Section 5. If there were harms last year, ask about them today and Q 4.20; then go to Section 5.
3. At Q6.02 ask for the organisation only, then go to Q6.30.

Personal-organisational

1. Complete Replacement Section 1 for organisational victims. (substitute for pp. 2-3) Go to Section 2.
2. Section 4. Go straight to Q4.10. Ask Q4.10 to 4.20.
3. Ask all questions in Section 6, but Q6.02 is asked for the organisation *and* themselves. The Recovery/Hinder Box is asked for them personally.
4. For Q6.74, ask for both personal and organisational victims.

Personal-occupational

1. Treat these as personal victims but remember to ask about their workplace, Q's 8.25 to 8.27.

Section 2: conference memories

These items are identical to those in the YP interview.

Section 3: the apology

The apology items parallel those asked of the YP, with the victim invited to speculate on why the YP apologised. We asked victims how the apology affected their attitude toward the YP and how it made them feel, and we were especially interested to probe the different reactions victims had to the verbal and written apologies. Because so little is known about how the apology process in fact affects victims (and offenders), these SAJJ items will make an original contribution to the restorative justice literature. The analysis will be structured around Tavuchis' (1991) theoretical understanding of the apology process.

Section 4: offence effects today

In assessing whether victims were still affected by the offence--financially, physically, and emotionally--we were aware that in asking these questions, some victims might again be reminded of the offence. Thus, we aimed to get a general understanding of the degree to which they were "still bothered" by financial losses, physical injury (if appropriate), and emotional concerns arising from the incident. The list of psychological items (4.11 - 4.18) was the same as that used in the victim 1998 interview (adapting from the RISE Year 1 victim interview). We decided that rather than going through the entire list, we would ask only about those items that victims said had affected them in the 1998 interview. In this way, we didn't read a list of potentially irrelevant items. The analysis of the emotional effects of crime can be compared with Gardner's (1990: 32-38) study of victims, as well as the RISE Year 2 results.

Section 5: the agreement

The conference "outcome" is a highly contingent one. At the conference there is a discussion about what the YP should do for the agreement, which ends in the YP signing a document promising to carry out those activities. The contingencies are whether the YP really does fulfil the promises made, how sincerely (or earnestly) they are fulfilled, and whether victims know what has happened.

With respect to this last item, the Family Conference Team's policy is to send notices to victims following the end date of the agreement. These show what the conference decision was, whether the YP complied (or what is known about compliance), and whether the matter was referred back to the police. In theory, victims should be informed of whether the YP completed the agreement.³³ It therefore came as a surprise to us when we were conducting the interviews that so many victims said they could not remember having received any information about the agreement (a hazy memory) or they were adamant that they had not received any information (a clear and certain memory). Of the 73 victims interviewed, a higher percentage said they had not received any information (53 percent) than those who said they did (41 percent) (for the remaining 6 percent, the YP had no agreement element to complete beyond a verbal apology). This lack of knowledge could create some problems when we then turned to what our "notes showed" about the YP and the agreement. One-quarter of the victims told us that this was the first time they learned of what happened. (The apparent discrepancy between the over 50 percent who said they didn't recall receiving any information and the 25 percent who said that this was the first time they found out may be

³³ For conferences handled in the Port Augusta office, however, my understanding is that during the SAJJ research period, notices were not sent to victims when YPs failed to comply with the agreement.

explained by the fact that some victims learned what happened from other sources or they were in the hazy memory category, but this will be analysed.)

The contingency of the agreement outcome was brought home to us during the interviews when we discovered that while a victim may have received a letter from the Family Conference Team saying that the YP had complied with one or more elements in the agreement, the victims told us that the YP had in fact not complied. For these victims (5 of 73 victims interviewed, or 7 percent), then, while the official data indicated compliance, it would have been inappropriate to ask them questions about compliance. Depending on whether the YP complied (and the victim's perception of this), we then asked questions in the relevant Box for completing (or not completing) the agreement. There is a great deal of speculation in the literature about the potential for restorative justice processes to "repair the harm" when offenders follow through on their agreements. But as best I can determine, the SAJJ victim instrument is the first to directly ask victims about this.

A common claim in the restorative justice literature is that victims are more often concerned with receiving a genuine apology than monetary compensation. The veracity of this claim is difficult to judge because we know from at least one study (Maxwell and Morris 1993) that victims are disappointed with conference outcomes, perhaps having had raised expectations of receiving more. We decided to put the question to victims in a direct way by asking "What was more important to you -- that [name of YP] make a genuine apology to you *or* that [name of YP] make up for what s/he did by paying money or doing work?"

Section 6: victim recovery (or not) from the incident

The SAJJ group spent considerable time on how to assess the long-term effects of the incident that led to the SAJJ conference. The introductory question aimed to separate those victims who said the offence was "all behind" them or they had "fully recovered" from it from those for whom it was "partly behind" them or they had "not fully recovered" from it. Those who recovered were asked an open-ended question about why they thought they had fully recovered and then asked a longer set of items in the Recovery Box.

For those who had not fully recovered from the incident, the interviewer went first to the Hinder Box, asking an open-ended question about why s/he has not been able to put the offence behind them. This was followed by close-ended items that tapped the effects of the offence (financial, physical, emotional harm, its seriousness, being traumatised), the YP's behaviour (lack of remorse, not finishing the agreement), and the sense that justice was not done (thinking the agreement was too lenient for the YP). After answering questions in the Hinder Box, the victims were then asked the questions in the Recovery Box. Our aim was to determine what factors played a role in helping victims to get the offence behind them, even if they hadn't fully recovered from it.

In the Recovery Box, these dimensions were explored (questions in parentheses):

- support from family, friends, and people one works with (6.04, 6.07, 6.09)
- contact with legal authorities (6.10, 6.17)
- effects of the conference process (6.05, 6.08, 6.12)
- believing that justice was done (6.06, 6.16)
- the YP's efforts to "make things right" (6.15)
- the victim's sense of resilience and coping by "forgetting" (6.13, 6.14)
- passage of time (6.03)

In both boxes, we sought to determine which thing was most significant in hindering or in assisting their recovery from the offence. A general question followed that asked which dimension of getting the offence behind them was more important: participating in the conference process or things that they could only do for themselves. This question tests a core assumption in the restorative justice literature: that the justice process matters greatly (or should matter greatly) to victim's recovery. This is, of course, a matter for empirical inquiry.

Section 6 continues with items tapping what the SAJJ group has come to term the "second shift" in victims' orientations to offenders.³⁴ In 1998, we explored whether victim's attitudes toward offenders changed in the period before and after the conference. In the 1999 interview, we wanted to see if victims' attitudes changed since we last spoke to them ("after the conference") and *why*. The usual terms of feeling "positive" or "negative" were used, but we had learned from the 1998 interview that some victims felt "neither positive nor negative". This anchor is difficult to interpret because it may mean that victims really don't care (no emotional affect or "neutral") or that they really *do care*, but don't want to appear as if they do.³⁵

Those who remained positive or became more positive toward the offender were asked questions in the Positive Box, and those who remained negative or became more negative were asked questions in the Negative Box. The items in both boxes asked about the YP's completing the agreement, the sincerity of the apology, and talking to others about the conference outcome.

The final set of items in Section 6 focused on the victims' general orientation to conferencing, asking how worthwhile it was, whether they wished their case had gone to court instead, whether they viewed conferences as being more for offenders than victims, and what improvements they would like to see. For those victims who had ever been in a court case as a victim, we asked them to compare that experience with the conference. Like the YP interview, we needed to take advantage of the opportunity to make comparisons between court and conference.

Section 7: punishment and restorative justice

The victims were asked the identical set of questions as the YPs. However, in the first set of questions, we asked the victims if they thought elements of the conference process and having to do the agreement was a type of punishment for the offender in their case. For the second set of questions, we asked victims whether they thought any of the things that could be in an agreement was a type of punishment for young people in general. The follow up sequence about what makes some things, but not others, punishment, was asked in the same way as in the YP interview.

Section 8: last section

The first part of Section 8 focused on victims' beliefs about the role of the criminal justice system in preventing crime. Items 8.01 - 8.06 were taken from Hough and Roberts (1998:

³⁴ This concept of the "second shift" emerged in my conversation with SAJJ researcher Venables who was planning to do her Honours Thesis on "victim shift". I suggested, with irony, that the next shift might be called the "second shift". Many readers will be familiar with the "second shift" term from the women and work research literature: to describe women's working day of family work on top of paid work.

³⁵ From my interviews with victims, those who said "neither positive nor negative" did so with a degree of emotional intensity that did not sound especially neutral, but this is speculative.

33-34, 57). Items 8.13 - 8.16 adapted from Hough and Roberts (1998:58) on "how good a job" the police, conference coordinators, and magistrates or judges were doing, as did items 8.17 - 8.18 on the media coverage of crime (to which we added the media depiction of young people) (p. 59). Item 8.08 adapts from Indermaur's (1990) study of the public's and judges' perceptions of court practice, in which one survey item (p. 67) asks how the government might reduce overcrowding of prisons: "build more prisons or sentence offenders to alternatives to imprisonment". The SAJJ question focused even more specifically on putting money into the "hard end" (prisons or jails) of criminal justice responses or the early intervention (crime prevention) end.

In asking items 8.09 - 8.12, we were tracking the public perception literature on court leniency toward offenders and the public's "punitiveness". However, these were tailored to the conference experience for victims: item 8.09 asked if conferencing was a "soft option", and 8.11 sought to determine if the conference process had changed victims' outlooks on young people who commit crime, that is, whether they had become more "get tough" oriented or "more sympathetic" or whether their outlook had not changed. We discovered in the field test of the interview that victims might use the term "get tough" in different ways than criminologists do. Thus, for victims who said their stance was "get tough", we asked what they meant by having that outlook.

For the remainder of the victim interview, we used the same questions as in the YP interview, with modifications, where appropriate. They included items on feelings of neighbourhood safety (but not safety in the household), new items for organisational and occupational victims on safety in the workplace, likelihood of personal or property victimisation in the next 12 months, the impact of the research project on the victim, what the conference was *for* (theories of criminal justice response), and how they would handle the offence if they were in charge.

3. Victim "No Show" interview (Appendix 3)

Like the 1998 instrument, the 1999 Victim No Show interview was designed to take less time to complete (in 1999, about 30 minutes) and to be conducted over the phone. The term "no show" may give the misleading impression that these victims were supposed to have appeared at the conference but didn't, or that they were not interested to attend the conference. A better description is that they were not present at the conference, although a portion would have wanted to be there, and in fact, had tried to attend. From the 1999 interview, I learned that half of the no show victims (8 of 16) said they would have wanted to be at the conference. By comparison, 21 percent of the victims who were present at the conference said in 1999 that the conference was not worthwhile, with 18 percent saying that they wished the case had gone to court.

The interview has the same items as the victim interview, but is a shortened version of it. The question areas cut were the Recovery and Hinder Boxes, since they had many items that were related to being in the conference. Also edited out were the close-ended questions on why the victims' attitudes may have become more positive or negative or not changed. Here, an open-ended question was used instead. In Section 7, the punishment section, the items on the things that could be in agreements was cut. We retained most, but not all the items on the apology. That section was shorter because written apologies were, with one exception, the only means by which YPs apologised to these victims, if they apologised.

4. Other design considerations in the YP and victim interviews

Naming victims and offenders (or young people)

For the 1999 interview, SAJJ researcher Venables proposed that we use the actual names of the victims and offenders, rather than the terms *victim* and *offender*. This was a sound idea, and it accomplished several objectives. First, the YP (offender) and victim were reminded of the person by using a name; this made the question even more relevant to the actual offence and the social relationships involved. Second, and relatedly, by personalising the question, the YP (offenders) and victims were able to focus on a particular person. This was essential for cases having multiple offenders and victims at the conference when we wanted information on the primary YP and victim. Third, the terms *victim* and *offender* may be inappropriate for how some respondents saw the situation; for example, some offenders did not see the person they hurt as a victim.

Tailoring, preparing, and conducting interviews

A major tension has long existed in studies of justice system processes: does one focus on statistical analyses of aggregates or does one examine the particulars of cases? My previous work on racial and gender disparities in sentencing showed that statistical analyses can give a misleading picture of what occurs in courtroom decision-making (Daly 1994). In designing the SAJJ project, and especially the interview instruments, I revisited this tension. On the one hand, because of the newness of the idea of conferencing and restorative justice, the project needed to gather data on a sufficient number of cases to gain an appreciation of variability and difference; but, at the same time, the project needed to prise open the statistical aggregates and to probe beneath the surface, to get inside the idea of restorative justice, which is best done by a close analysis of cases.

One way to gain a qualitative appreciation of individuals and their cases was to tailor each interview by personalising and individualising it. In returning in 1999, my aim was to revisit those offenders and victims we had interviewed a year before. That revisit meant not just that we were conducting a "second wave" interview, but that we were returning to see and visit with the young person and offender. In other words, when members of the SAJJ group and I phoned the young people and victims to arrange an interview in 1999, we hoped (indeed anticipated) that the relationship established in the previous year would help us to not only get the interview, but also to reduce the social distance between us and the respondents. While I cannot know if we accomplished this goal,³⁶ I am convinced the creation of social bonds between researchers and the subjects of our research can create the trust that is so crucial to frank and open responses.

In conducting the interviews in 1999, the SAJJ group aimed to have the same pairings of interviewer and victim/young person as in 1998. It was not possible to accomplish this aim completely, of course, because three of the five 1998 interviewers returned in 1999. Of all the completed 1999 interviews (N = 161), 102 (63 percent) had the same interviewer and offender/victim pair as in 1998 interview.³⁷

³⁶ However, the very high response rates in Year 2 suggest that bonds had been established: for the YPs, the response rate was 95 percent; and if we eliminate the two victims who died, it was 73/77 or 95 percent for the victims.

³⁷ The percents were nearly identical for victims (64 percent) and offenders (63 percent).

For individualising the interview, in the major sections of apology, completing the agreement, staying out of trouble (YPs), psychological effects (victims), and attitudes toward the offender (victim), each interviewer had to prepare the interview schedule in advance, using the information gathered in the 1998 interview or available from official records. In some cases, we could be sure of the accuracy of our information (such as what the victim had said in the 1998 interview), but in other cases, we needed to verify our information or inquire about it. In working through the interview, then, we were able to more effectively engage in a conversation with the offender and victim about *their* case, *their* situation. Such an approach is preferable to the more distant interviewer who knows nothing about the person being interviewed.³⁸

Class indicators

An enduring problem in understanding legal processes is how relations of power matter and with what effect on the process and outcome. In *SAJJ Technical Report No. 1*, I discussed this problem when observing the conference process (Daly et al. 1998: 41-44). Although it is possible to observe age and gender differences, and to a somewhat lesser extent, racial-ethnic differences,³⁹ it is relatively more difficult to assess class differences. In the 1998 and 1999 victim and YP interviews, we asked respondents what their educational attainment and current occupation (including student status) was. And in the 1999 interview, we asked the YPs and personal victims whether they (or their parents) owned or rented the house or flat, and whether it was council housing or not. However, I was dissatisfied with the measures of class we had, especially for the YPs.

In 1999, the SAJJ group developed a Class Indicators inventory. This inventory drew, in part, on indicators of disadvantage, which describe the physical features of the street, the home, and the neighbourhood environment (see Homel and Burns 1989). Our inventory included outside household indicators (for example, proximity of the household to commercial and light industrial areas, the maintenance of the area close to the household), to which we added inside household indicators (physical resources such as books, computers, sense of "homeliness"). In addition, where it was possible, we assessed the degree of family cohesion (this being more relevant for the YPs). For example, some households with few economic resources may be rich in degree to which parents (or caretakers) support young people and care for them. Two summary measures (from a longer list of indicators) were established: class (middle class, working class-stable, working class-unstable, and poor) and family cohesion (a 4-point scale ranging from close and warm to distant and uncaring).⁴⁰

³⁸ There are, of course, longstanding epistemological debates in this area (see Reinharz 1992: 22-39), and one cannot make an absolute claim about the optimal distance between researcher and respondent because this would depend on what was being investigated. Moreover, the kind of relationship between researcher and respondent (that is, on a continuum from distant-objective to closer-intersubjective) is as much an *ethical* as epistemological matter.

³⁹ Racial-ethnicity is increasingly understood to mean what a person's self-declared identity is. In Australia, people of Aboriginal heritage can appear to be "white" or may not be aware of (or claim) an Aboriginal heritage until they are older. One cannot be sure from observation what a person's racial-ethnic identity is.

⁴⁰ Homel and Burns (1989: 151) find independent effects of neighbourhood ("children living in pockets of disadvantage, particularly in commercial and industrial streets") over class in children's sense of well-being. Our class indicators combined elements of street and neighbourhood with household educational resources; thus, it is not a pure measure of class or of neighbourhood environment.

5. Police (PYO) and coordinator (YJC) end of research period interviews (Appendices 4 and 5)

The police and coordinator interviews contained a comprehensive set of questions, which covered all facets of their work. The schedule largely called for opinions and reflections on their work, not answers to close-ended items. All 26 interviews (except two police interviews) were tape-recorded, and professionally transcribed.⁴¹ The interviews ranged in length from 1 hour 10 minutes to over 3 hours. There was great value in conducting the interviews at the end of the research period: by that time, we could relate the interview items to results from the 1998 PYO and YJC self-administered surveys⁴² and to some of the items developed in the 1999 victim and offender interviews.

A nearly identical set of questions was asked of both groups; therefore, I shall discuss the interview schedules together. Following Section 1 (demographics and work histories), 6 major themes structured the interview:

- Similarities and differences in their professional views of the conference process (the "police perspective" and the "social worker" or "youth-oriented" perspective).
- How each group exercises discretionary power (referring cases to conference, monitoring compliance).
- Changes, if any, in how each perceives their role and practices.
- Theor(ies) animating their practices: reintegrative shaming, restorative justice, a combination, neither?
- Their views on different groups in the conference process (offenders and victims, racial-ethnic and gender differences, country and city justice).
- Their desires for conferencing futures.

In addition to these areas, I included some items that had been in the 1999 YP and victim surveys (items 2.11-2.16 on what conferencing is *for*; items 2.20-2.24 on punishment and restorative justice).

Similarities and differences in professional views

Items from Section 2, but more often Section 5, tap the degree to which the police and coordinators are similar and different in the stance they take toward conferencing: item 2.30 on general justice aims, item 2.40 on what are indicators of "successful" conferences, and items 5.01 - 5.04, 5.09, 5.20 - 5.23, 5.25 - 5.26 on the ideal and actual relationships between the coordinator and police officers, reactions to results in the YJC and PYO surveys, and a

⁴¹ SAJJ researcher Venables conducted 7 YJC interviews; I conducted 2 YJC interviews and all the 17 police officer interviews.

⁴² As described in *SAJJ Technical Report No. 1*, following each SAJJ conference, the police officer and coordinator in that conference completed a self-administered survey about what occurred, including their judgment of the other professional's behaviour.

global item on whether it is preferable for the coordinators and police officers to have similar or different justice aims.

Exercise of discretionary power

Each professional group has an independent base of discretionary power: the police officer decides which cases to refer to conference (or court), and the coordinator manages the selection of people attending the conference and runs it. Section 2 examines police discretionary power, and this is the one section where there are differences between the two interview schedules. In the police interview, I wished to probe the criteria that the police use in their current practices in deciding to refer cases to conference (or not) (items 2.00 - 2.05a). The coordinators were asked what factors they believed *should be used* in referring cases, whether they think they should have more power in referring cases, and what cases are referred to conference that should not be (items 2.00 - 2.08).

Another source of discretionary power, which the coordinators and police officers share, is the decision to breach or to waive a YP who has not completed the agreement. Normally, when a case is breached, it is sent to court; when a case is waived, the YP may not have completed all the elements, but have done most of it so that a breach is not deemed to be warranted. In theory, the decision to breach or not is formally made by a police officer (although the coordinator initiates the paperwork and sends it to the officer), but in practice, the decision is often jointly made, with the police relying on the coordinator's judgment. Coordinators are typically closer to the case and the specifics of what happened than are police officers, although there are exceptions to this general pattern.⁴³ Items 5.05 - 5.08 ask how these decisions to breach or waive are made.

Change over time in conference practices

The interview began with questions about current practices (Section 2), but then moved to practices when the police officer or coordinator first became involved in conferencing. Conferencing began in South Australia in February 1994, and high proportions of both groups had begun in that year or 1995.⁴⁴ I was interested to learn whether there had been change over time in conferencing practices. Advocates of police-run conferences have proposed that one benefit of this approach is to change "police attitudes" or "police culture" (Moore and O'Connell 1994) toward a more restorative approach. Did this occur for the PYO's? Conference coordinators began with high ideals about what they might accomplish in their professional role. Did those ideals shift with time? And what changes (if any) occurred in the relationships between the coordinators and police?

Theor(ies) animating practices

It is commonly claimed that conferencing practices came first, the theory came later. This is only partly true in that there were implicit theories structuring New Zealand conferencing practices when they first began in 1990, most notably that better decisions could be reached by family groups, working with professionals, rather than a professional-only model. Another related presupposition was that a culturally appropriate practice (hence, variation in justice practices) was better than a standardised practice, which was likely to be

⁴³ Several exceptions are when YPs do not show up for the "Straight Talk" session, which is run by the police, or when an agreement condition is being on a 3-month "good behaviour" bond (a condition that seems to be more frequent in the country than in the city cases). In these situations, the police are in a better position than the coordinators to know if the YPs complied.

⁴⁴ Of the 9 YJCs, 6 began in 1994 or 95; and of the 17 PYO's, 14 began in 1994 or 95.

white-centred. The implicit theory structuring the Wagga model of police-run conferencing in 1991 was that an "effective cautioning scheme" could be accomplished when a police officer worked with family members, the young offender, and the crime victim together. In this way, formal police powers could engage informal social control. Braithwaite's theory of reintegrative shaming was embraced by Wagga-model proponents soon after they learned about it (Moore and O'Connell 1994). In this sense, then, the claim is true in that one popular theory -- reintegrative shaming -- was used to justify Wagga conferencing practices after the fact.

The idea of *restorative justice* also came into popular usage in the early 1990s. Because the term has come to mean so many things, is used to describe a range of disparate practices, and emerged from varied social movement and disciplinary sources (see Daly and Immarigeon 1998), there is not "a theory" of restorative justice *per se*. What it has come to mean over the years, however, is a way of doing justice in which the emphasis is on repairing the harm, victims are central actors in the process, and both lay and legal actors participate in the decision-making process. If there is one major element that distinguishes reintegrative shaming from restorative justice, it is that the former centres on methods of changing the offender and has little to say about victims; the latter centres more on the relational dynamics between victim and offender, and in some formulations, "the community".⁴⁵

How do conference coordinators and police officers understand these terms? Item 4.01 poses this question, asking how they would define these terms and which one guides their practices and why.

Different groups in the conference process

Axes of "difference" in the conference process include the different positional interests of victims and offenders, racial-ethnic and gender differences, and country and city justice. In each of these areas, we asked the coordinators and police to describe not only what was occurring, but also where improvements could be made. Items 6.01 - 6.04 ask which person benefits from the conference process, the victim or offender?, how the police officers and coordinators view the role of victims, and how the conference process can be improved for victims. Item 6.05 asks them to reflect on how the conference process works (or does not work) for Aboriginal young people, and what changes (if any) they would like to see in how the conference process is applied to Aboriginal cases. Item 6.06 asks if they see differences in how the conference process affects men and women, and item 6.07 asks if country justice differs from that in the city; and for those officers in the country areas, what changes they would like to see.

One of the age-related problems with the conference process, or indeed any process aimed at the adjudication of minors, is how much the young person understands what is going on. From our interviews with the young people in 1998, we learned that about half didn't seem to understand the legal context of the conference process or their legal options. These findings are likely to cast a negative judgment on South Australian conferencing practices, and thus we wanted the police officers and coordinators to have a right of reply (item 6.10). Why, in their view, might this be happening? What could be done to improve the legal understanding of young people about the conference process? Previous research suggests that youth typically do not know their legal rights nor what is occurring in the juvenile court process

⁴⁵ There is intense debate within the restorative justice field about the role and place of "community" in criminal justice; the term seems to be more meaningful to those in the U.S. than elsewhere (see Walgrave 1999).

(Australian Law Reform Commission 1997; O'Connor and Sweetapple 1988). Therefore, the SAJJ findings on young people's knowledge of the conference process and their legal options are not unusual, but conform to a general pattern.

Conferencing futures

The last set of items (Section 7) asks what changes the police and coordinators would like to see in the frequency with which conferences are used in the three-tier response of formal caution, conference, and court; whether the conference idea should be expanded to include other kinds of cases; and what major changes they would like to see in the whole conference idea.

A final question, not fitting into any of these themes (item 5.24), asks whether the SAJJ conferences differed from other conferences the police or coordinators were part of in 1998. I was curious to know whether the police or coordinators believed there were SAJJ research effects on the conferences we observed and on the YJC's or PYO's practices more generally.

6. Youth Court judge and magistrate end of research period interview (Appendix 6)

Four judges and magistrates (two each) sit in the Adelaide Youth Court, although they also travel to other court sites. I interviewed the two judges (including the Senior Judge) and one of the magistrates (the other was not available). The interview instrument was open-ended, asking how they exercised their discretion (1) when they received breached conference cases, (2) in the adjudication decisions (that is, "without conviction" or "conviction without penalty"), and (3) when young people re-appear on fresh charges. I was interested to find out what they believed was the ideal relationship between the court and the work of the family conference, and what they saw as the strengths and weaknesses of conferencing.

Concluding comment: conducting research in an emergent justice field

Two mindsets are present in research on social phenomenon. One mind seeks to know the "states and rates" of things: how often did this or that occur, how do sub-groups vary, and which key variables are predictive of outcomes? Another mind seeks to get inside the "states and rates" of things: what are the meanings of concepts and variables to participants, what are the intersubjective meanings for participants of what is happening, and what are the points of indeterminacy in explaining outcomes?

This report focuses on statistical distributions, averages, and group differences in close detail. As a scientific matter, it is important to depict the range and variation in the phenomena being studied, and to be explicit about what generalisations can be made from the data. Moreover, in conducting research on little known and emergent phenomenon, like restorative justice, it is important that researchers give reasons for the content of their instruments and how they conducted the research. In presenting many statistical details, I do not wish to give the impression that this is the mindset of the SAJJ project and all that it has to offer. Like my previous research on New Haven sentencing, my analysis of conferencing moves between logico-scientific and narrative modes of reasoning (Daly 1994).

Government interests in restorative justice have largely been confined to subsidising research on two areas of inquiry: participants' "satisfaction" with the process and outcome, and the effect of conferencing on reducing re-offending. These are worthy dimensions, to be sure, but they should not be decisive in driving the research agenda. There are other pressing questions about conferencing as a practice and restorative justice as an innovation in the justice field. Among them are the differing roles and justice aims of police officers and coordinators in the conference process, the degree to which procedural justice and "restorativeness" can be achieved in the conference process, the complexity of apologies and their meanings to participants, a broader meaning of restorative justice beyond the interactions in the conference itself, the varied capacities of offenders and victims to want to understand and empathise with the other, and the degree to which any justice process (however innovative) can make a difference in the lives of crime victims and offenders, their attitudes toward each other, and to the politics of crime control.

One dilemma confronts researchers in the study of restorative justice. Should a research study focus on conferences alone, or should conferences be compared with court? The most significant contribution of RISE is that offenders are randomly assigned to court or conference, reducing the selection effects of the police referral decision to conference. Ideally, we can then know whether the court and conference process has similar or different "effects" on offenders and victims. There is, however, one problem with this focus: the innovative and unique qualities of the conference process take a secondary position to measures that are applicable to both sites, and more often, to measures that use the traditional system as the norm. Thus, for example, we find extraordinary government interest in determining if conferences are more effective than court in reducing re-offending. Re-offending is an important area and should be pursued, of course, but it is not the primary purpose of conferences or other restorative justice practices.⁴⁶ For restorative justice, the indicators are "restorativeness" (that is, the degree of movement and understanding between victim and offender, including the willingness of the offender to "repair the harm" caused (both immediately and over the long term), and the participation of those affected by the crime in discussing the offence and what should be done.⁴⁷ Whether or not someone re-offends (or their degree of re-offending) is assumed to be a by-product of these primary activities. Moreover, there are a variety of contexts in which restorative justice responses may be appropriate, which may have no bearing at all on re-offending.

The idea of restorative justice is more than the introduction of a "new program" to reduce crime, although it is likely to be contained in that policy box for some time. It is a larger idea about a different way to do justice in the response to crime. To date, advocates have promoted a far too optimistic (and often misleading) account of what restorative justice is (Daly 2000c). Critics are no better in that arguments are based on the grounds of principle, but evidence is lacking for the many dangers and problems cited. Careful research has a role

⁴⁶ One could argue that the *justification* for criminal justice intervention is ultimately about preventing future crime. But as Andrew von Hirsch (1985: 54-60) proposes, we should decouple justifications for the *censure* of crime (non-utilitarian, moral-based reasons) from the justification for "hard treatment" (utilitarian, to safeguard others). According to von Hirsch, the "amount" of punishment should be desert-based (backward looking) and not based on utilitarian (forward-looking) goals. See Bottoms (1998) for a re-appraisal of these arguments.

⁴⁷ The theory of reintegrative shaming has a closer connection to re-offending in that it directs attention almost exclusively to how conference activities affect the offender (rather than the victim). The theory focuses on an offender's sense of feeling badly for what they have done in a context of support and care from others. The prediction is that re-offending is less likely when one engages or heightens mechanisms of informal social control in the offender's life, using a dialogic, respectful approach to reasoning with an offender.

to play in moving the discussion beyond these polarities and in getting inside restorative justice, to show how people make sense of this new justice idea, how it affects them, and whether it offers a promising way forward.

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