

***SAJJ-CJ***

***South Australia Juvenile Justice  
and Criminal Justice Research on  
Conferencing and Sentencing***

**Technical Report No. 5**

**In-Depth Study of Sexual Assault and  
Family Violence Cases, Part II**

**Sibling Sexual Assault,  
Other Sexual Assault, and  
Youth-Parent Assault**

**by**

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**December 2012**

This report and the case studies have been prepared in detail for interested readers. Please do not cite or quote the report, or use the case studies without the permission of the senior author.

## **SAJJ-CJ Technical Report No. 5**

### **In-Depth Study of Sexual Assault and Family Violence Cases, Part II: Sibling Sexual Assault, Other Sexual Assault, and Youth-Parent Assault**

#### **Abstract**

*SAJJ-CJ Technical Report No. 5* describes nine cases of sexual assault and family violence that were gathered for the In-Depth Study of Sexual Assault and Family Violence Cases (the “In-Depth Study”) in South Australia from July to December 2001. The Study’s conceptual basis, instruments used, study design and implementation, and other background material are described in *SAJJ-CJ Technical Report No. 4* (Daly et al. 2007a).

The In-Depth Study gathered data on a total of 14 cases. Of these, two peer sexual assault cases have been analysed (Daly and Curtis-Fawley 2006) as have three youth-parent assault cases (sons assaulting mothers) (Daly and Nancarrow 2010). The nine remaining cases are presented in this *Report*: four of sibling sexual assault; two, other types of sexual assault; and three, youth-parent assault (two of sons assaulting fathers, and one of a daughter assaulting her mother). Like the cases that have already been published, the assembling of each case drew from the police reports, interviews of the coordinators who organised and facilitated the conferences, and interviews of victims or family members representing them.

Part I gives the study’s background and context, and Parts II to IV present the cases, prefaced by the relevant literature on youth sexual assault and family violence. The aim of *Technical Report No. 5* is to bring forward the texture and complexity of the sibling sexual assault and youth-parent assault cases and to situate them in the research literature. However, other publications (completed, forthcoming, and planned) analyse the cases with reference to the extant literature on sibling sexual assault, conferences, and the construct of victims’ justice interests (Daly 2012; Daly and Wade 2013).

#### **Acknowledgments**

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Many people have contributed to the success of the In-Depth Study, and we are grateful for their generosity. The support and assistance of (the then) Senior Youth Court Judge Andrea Simpson, (the then) Youth Court Registrar Janet Kitcher (now deceased), the Senior Youth Justice Coordinator (Senior YJC) Carolyn Doherty, and Senior Sergeant Dave Wardrop were pivotal in the planning and execution of the research. We thank all the Youth Justice Coordinators (YJCs) who participated in the research and assisted in the research design and instrument preparation: Carolyn Doherty, Marnie Doig, Eric Kasearu, Michelle McGeachie, Stewart Potter, and Grant Thomas. Other colleagues assisted in revising the interview instruments, and we appreciate the time and attention they gave to the project: Robyn Holder (then, the ACT Victims of Crime Coordinator), Gillian Westhorpe (then, Manager, Early Intervention Project, South Australian Attorney-General's Department), Heather Nancarrow (Director, Queensland Centre for Domestic and Family Violence Research), and Julie Stubbs (Professor, University of New South Wales).

Sarah Curtis-Fawley worked closely with Daly in planning and executing the In-Depth Study in Adelaide, and with Brigitte Bouhours, preparing the materials for analysis in Brisbane. Curtis-Fawley and Daly carried out all the interviews with the YJCs, victims, and victim representatives. Leanne Weber (now a research fellow at Monash University) was a key member of Adelaide research team; she worked on the Sexual Assault Archival Study (SAAS) and a study of the Nunga Court with Daly. We are indebted to all of those who have contributed to the success of the In-Depth Study, and especially to the victims and family members who gave their time to speak with us.

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## Part I Context and Background

### A. Report context

*SAJJ-CJ Technical Report No. 5* presents nine cases of sibling sexual assault, other sexual assault, and youth-parent assault in the In-Depth Study. Interviews of Youth Justice Coordinators (YJCs) were carried out for all eligible cases finalised by a youth justice conference from 1 July to 31 December 2001 in South Australia. Interviews of victims or family members representing young victims were carried out for all conferences that were held from 1 October to 31 December. During the research period, a total of 14 cases fell into the In-Depth Study sample (eight sexual assault and six family violence cases).<sup>1</sup> All the YJCs were interviewed to elicit detailed information on conference preparation and dynamics, and post-conference outcomes. Of the 11 eligible victims in the 14 cases, seven were interviewed. Of the seven eligible victims in the cases presented in this *Technical Report*, four were interviewed. Two articles have been published from the In-Depth Study: Daly and Curtis-Fawley (2006), analysing two peer sexual assaults; and Daly and Nancarrow (2010), analysing three cases of sons assaulting mothers.

The In-Depth Study is one of several studies in a program of research on new justice practices in Australia, New Zealand, and Canada, which includes quantitative and qualitative studies of restorative justice in cases of sexual, partner, and family violence.

The major quantitative component of the research is the Sexual Assault Archival Study (SAAS). SAAS collected and analysed data on 385 youth sexual violence cases, which were finalised in court, by conference, or formal caution in South Australia from 1 January 1995 to 1 July 2001 in South Australia (see Daly et al. 2007b for *Technical Report No. 3*, 3<sup>rd</sup> edition; Daly 2006 and Daly et al. 2013 for published articles from the data).

A set of qualitative studies was carried out. A preliminary theoretical and empirical analysis of youth justice conferences in sex offence cases was conducted (Daly 2002b). The judicial sentencing remarks for the 55 legally more serious cases disposed in the South Australian Youth Court, 1995-2001, were analysed (Bouhours 2006; Bouhours and Daly 2007; Daly and Bouhours 2008). Interviews with victim advocacy or service provider groups in South Australia and Queensland were carried out (Curtis-Fawley and Daly 2005); as were those of opinion leaders in New Zealand (Proietti-Scifoni 2008; Proietti-Scifoni and Daly 2011); and Indigenous and non-Indigenous women in Queensland (Nancarrow 2003, 2006, 2010). The aim of the interview studies was to elicit a range of views on the uses of restorative and conventional criminal justice in cases of partner, sexual, and family violence.

A special issue of *Theoretical Criminology* on Gender, Race, and Restorative Justice was produced (co-edited by Cook, Daly, and Stubbs 2006); in that issue and elsewhere (Daly and Stubbs 2006, 2007; Daly 2008b, 2012) are overviews of feminist analyses of restorative justice and the race and gender politics of new justice practices in Australia, New Zealand, and Canada. The project has also carried out observational and interview studies of urban Indigenous sentencing courts and other justice practices in more remote areas of Australia

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<sup>1</sup> We use the term “family violence” as an umbrella concept that includes partner, youth-parent, sibling, and adult-parent (elder) violence. The term is used by Australian Indigenous women to refer to an even wider set of social relations and violence among family members and kin.

(Marchetti and Daly 2004; Marchetti and Daly 2007; Daly and Proietti-Scifoni 2009, 2011; Daly and Marchetti 2012).

This aforementioned research (data gathered 2001-2006) differs from the South Australia Juvenile Justice (SAJJ) Research Project on Conferencing (data gathered 1998-99), which analysed the dynamics and outcomes of youth justice conferences for a range of violent and property offences in South Australia.<sup>2</sup> *SAJJ Technical Reports Nos. 1 and 2* describe the project's research design and the development of the observational and interview instruments (Daly et al. 1998, 2001). Many articles and book chapters have been published from the SAJJ 1998-99 datasets (e.g., Daly 2001, 2002a, 2003; Hayes and Daly 2003). All the publications relating to the research are available at [www.griffith.edu.au/school/professional-page/professor-kathleen-daly/publications](http://www.griffith.edu.au/school/professional-page/professor-kathleen-daly/publications).

*Technical Report No. 3*, 3<sup>rd</sup> edition (Daly et al. 2007b) gives a comprehensive summary of the legal contexts of the youth justice system in South Australia and the sentencing options available to Youth Court judges and magistrates. It reviews the literature and debates on the appropriateness of restorative justice in cases of gendered and sexualised violence, and it describes the ways in which the universe of 385 youth sexual offences was handled by the police and courts in South Australia over a 6.5 year period. Readers should refer to that report for the legal contexts of youth justice and sentencing options available. *Technical Report No. 4* (Daly et al. 2007a) focuses on the conceptual basis for the In-Depth Study, including the design of the instruments and how the study was implemented. Where necessary, we have taken some material from *Technical Reports No. 3 and 4*, when it assists readers to understand the South Australian context, the cases, and the debates concerning the appropriateness of conferences in cases of gendered violence.

### ***Terminology***

Legally speaking, only those young people who have admitted to an offence (or are found guilty) can be termed “offenders.” The term is appropriate for all the conference cases in the In-Depth Study, once a young person has admitted to offending. Some say that a complainant is not a victim until there is a legal determination that an accused person has committed an offence. Because the youth have made admissions to offending (a prerequisite for case referral to a conference), the legal status of “victim” is not in doubt in the In-Depth Study. The term “survivor” is preferred by many in the sector, but it may be less relevant when victims are, on average, 6 years old (although it may well be relevant later in time). In the youth-parent assault cases, the term survivor also does not seem apt for the parent victims. Thus, except when the term survivor seems apt or relevant, we use the term victim. The term does not signify a fixed or particular status of victimhood, but rather that a person was subject to victimisation, either as a once-off incident or as a pattern of abuse over time.

We use the terms sexual violence and sexual abuse interchangeably in this *Report*, but when relevant, we distinguish “hands-on” from “hands-off” (indecent behaviour) offences.<sup>3</sup> Sexual and physical assault are specifically concerned with “hands-on” offences.

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<sup>2</sup> However, the SAAS instruments drew on items from the SAJJ 1998-1999 instruments.

<sup>3</sup> “Violence” and “abuse” also include psychological and emotional dimensions, particularly in on-going violence.

## B. Background

### 1. Youth justice conferences in South Australia

Diversionary youth justice conferences are one form of restorative justice, which exists in all Australian states and territories. Most world jurisdictions do not use youth justice conferences for sexual offences because they are perceived as being “too sensitive” or “risky” to be handled by a conference or to be diverted from prosecution in a criminal court. South Australia is one of the few jurisdictions in the world that routinely use youth justice conferences to respond to youth sexual offending (Daly 2011, 2012).

We do not know how many jurisdictions use youth justice conferences for family violence.<sup>4</sup> This matter is rarely discussed in the youth justice literature, and there is little systematic knowledge about the character of these offences. Part of the problem is that some offences (such as property damage) may be indicative of violence against family members, and an unknown (and not counted) portion of assaults involve family members.

Refer to *Technical Report No. 3*, 3<sup>rd</sup> edition, for a detailed discussion of the South Australian youth justice system and the legal context of youth justice conferences as diversion from court for youth offenders (Daly et al. 2007b: 13-19, and Appendices 1-8). Here, we sketch some features of the conference process and practices in South Australia.

In South Australia, when a youth admits to committing a “minor offence”<sup>5</sup> and the police officer thinks the matter requires formal action, the officer may refer the matter to a family conference. The Youth Court may also refer cases to a conference. For a conference to go forward, the young person and police officer, at a minimum, must be present; but a conference coordinator typically invites the youth’s parent or guardian, a victim, and their supporters; when relevant, other supporters or community people may be included. The conference participants meet to discuss the offence, why it came about, how it affected the victim and others, and to decide on a penalty. Among the outcomes (or “undertakings”), a conference may require a youth to pay compensation to the victim (not to exceed \$25, 000 set by policy), to carry out community service (not to exceed 300 hours, set by statute), to apologise to the victim, or “to do anything else that may be appropriate in the circumstances of the case” (*Young Offenders Act 1993*). Undertakings have a maximum duration of 12 months (the longest of any Australian jurisdiction). The conference outcome is put in writing, acknowledged, and signed by the youth, and an official record is kept.

Compared to other Australian jurisdictions (except Queensland), South Australia is unusual in that the legislation establishing youth justice conferences, the *Young Offenders Act 1993*, did not specifically prohibit any offence from being diverted from court to conference. Over the years, the police have developed and refined a series of administrative orders to guide the referral decision when the cases referred became increasingly serious, as determined by the legal code.

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<sup>4</sup> Such conferences are used for youth and adult family violence cases in New Zealand (see Daly 2012), but except for adult family violence cases, we have not seen an analysis of youth justice conferences for youth family violence cases in any other jurisdiction.

<sup>5</sup> Although it refers to “minor offences,” the legislation defines this as any offence that a youth is charged with, if the police think that it should be treated as minor.

An important component to the handling of youth sexual offences in South Australia is the Mary Street Adolescent Sexual Abuse Prevention Program. Mary Street provides an intensive therapeutic intervention, typically of one year's duration, to address adolescent sex offending by young people aged 12 through 17 years. Conference and court outcomes may include participation in the Mary Street Program as part of an undertaking or penalty. We note that there is no similar targeted program for youth who are abusive or violent toward parents or other family members; and that, in general, the Mary Street program is largely focussed on youth in the Adelaide area (or those who can travel easily to Adelaide).

## **2. In-Depth Study of Sexual Assault and Family Violence Cases**

The In-Depth Study focuses on victims' experiences of gendered and sexualized violence, and their views on and experiences with the youth justice conference process and its aftermath. The research time frame was a 6-month period, July to December 2001, and the site was Adelaide, South Australia. Readers should consult *Technical Report No. 4* (Daly et al. 2007a) for the study's conceptual framework, research methods, and research instruments. The study had a total of 14 cases, five of which have been analysed and published previously (Daly and Curtis-Fawley 2006; Daly and Nancarrow 2010). Appendix I lists all the cases in the In-Depth Study.

The design of the research was to interview all the Youth Justice Coordinators (YJCs), who organised conferences over the 6-month research period, but to interview the victims associated only with those conferences that were held during a 3-month period (October-December 2001). The research team had initially hoped to observe the conferences, but in the planning phase, it became clear that having a researcher present in the conference room raised some concerns for the YJCs.

Detail on victim eligibility (or not) for interviews and whether we were successful in carrying out the interviews is shown in Appendix I. Summarising the data, for all 14 conferences, four were outside the time frame for victim interview eligibility. Of the ten conferences for which victims were eligible to be interviewed, there were a total of 11 eligible victims for interviews (one conference had two victim interviews). Of these 11 eligible victims, a total of seven were interviewed.

Of the six youth-parent assault cases, interviews with victims were carried out with just one of three eligible victims in the sample (the other three cases occurred during July-September 2001); and that completed interview was reported in Daly and Nancarrow (2010). Thus, of the three youth-parent assault cases presented in this *Report*, none was able to draw from a victim interview (two cases were not eligible, and one victim declined to be interviewed).

Of the eight sexual assault cases, seven were eligible for victim interviews (one case occurred during July-September 2001). For the seven, there were eight eligible interviewees (one case had two victim representatives). Of the eight eligible interviewees, two have been reported in Daly and Curtis-Fawley (2006). Of the four sibling sexual assault cases, one was not eligible for a victim interview, and two of three eligible victims were interviewed (one declined). For the two other sexual assault cases, in one, the victim's family moved away and the victim could not be interviewed; and in the second, which had two eligible victim representatives, both were interviewed. In the four sibling abuse cases presented in this *Technical Report*, the victim was young (on average, 6 years old); in two of the other assaults, the victims were 3

and 10 years (the latter was a male-male assault with a puppy). Thus, the person interviewed was a representative for the victim.

While acknowledging the limits of the In-Depth Study, in particular, the number of cases available for analysis, it is among the first to examine the handling of sexual and family violence cases in a routine youth justice conference practice. Other studies have focused on conferences for adult cases of family violence (see review by Daly 2012; see also Pennell and Burford 2002; Koss 2006, 2010; Koss et al. 2004; Social Sciences and Research Information Unit 2003); but except for Daly and Nancarrow (2010), few have focused on conferences in youth cases of family violence.

### 3. Assembling the cases

The process of creating a coherent story about the offence (or offending pattern), what led up to it, what concerns the YJC had in preparing the conference, how the victim (or victim representative) was feeling and what they were expecting, what happened at the conference and its aftermath—all of this information (and more) required many hours of reading, re-reading, and revising the material for each case. For each, we had a police report, an interview with the YJC that was carried out before and after the conference, an interview with a family member who represented the victim, the youth's criminal history, and any additional notes on the interview schedule or in the file. Criminal history data were provided by the South Australian police for a window of time 3 years after the conference, up to a cut-off date in December 2004.

The interview material with the YJC and victim focused on the key areas of interest to the research (as outlined in greater detail in *Technical Report No. 4*; Daly et al. 2007a: 19-24 for the YJC and 24-26 for the victim).

Augmenting the analysis were themes emerging from reading the cases themselves. For example, in the sibling sexual violence cases, we paid attention to the mixed loyalties of mothers, who were supporters of their offending sons and their victimised daughters. In the youth-parent assault cases, we were interested to determine if the research literature on sons assaulting mothers was applicable, or if the offending dynamics in these cases required another kind of theorisation about power and control.

The work of assembling cases receives little attention in research methods literatures in sociology and criminology. The task entails a continual revision of a text to create a coherent story and a sense of flow, to retain ambiguities, and to represent conflicting views in a balanced way. In addition, some opinions or views by the YJCs or victim representatives could be questioned and required that we step back and view them critically. We worked and re-worked the material many times to create a meaningful story and to accurately depict nuances and ambiguities in each case. At times, it was difficult to know when to include more details (particularly when such details may crystallise a key point) or to summarise and gloss information. Our aim was to keep the case summaries to reasonable length so that readers could retain and understand unfolding events. Some are longer than others, reflecting the fact that some had victim interviews and others did not.<sup>6</sup>

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<sup>6</sup> The case studies range in length from about 2,000 to 5,000 words, with an average of 3,100 words.

It is important to emphasise that the cases presented here were not written with clinical or counselling interests in mind: we are not trained as clinicians/counsellors, nor are the offenders and victims our clients. (However, the depth and detail given in the cases may lend themselves to practitioner interests, and we are interested to share the cases with those having such interests.) The cases in the In-Depth Study were written with another aim: to understand the dynamics of youth sexual and physical violence, from the perspective of offenders, victims, and family members; and to determine how such offending is addressed in youth justice conferences.

Each case study begins with the offence, putting it in context. The ordering of material varies, but in general, we first describe the orientation and views of the youthful offender; and then, the victim's (or the representative's) feelings and orientations toward the offence, offender, and the conference. We describe what happened at the conference and its outcome. The case ends with reflections on the conference by the YJC or participants, along with post script information, which includes post-conference offending (or desistance) by the youth, as this is known from official police data, during a 3-year period of time after the conference.

There is much to analyse in these cases, with reference to the literatures on sibling sexual abuse and adolescent violence toward parents, and to victims' justice interests (Daly 2012). Such analyses will be presented in other publications from this project.

## **Part II**

### **Sibling Sexual Assault**

#### **A. The literature**

We selectively review the earlier and more recent literature on sibling sexual assault<sup>7</sup> and its effects on victims; the familial contexts of the offending and problems faced by victims and family members in disclosing it;<sup>8</sup> and the potential and limits of youth justice conferences to address it. Stathopoulos (2012) considers the problems of defining sibling sexual abuse in greater detail.

#### **1. Experimentation or exploitation?**

The early research on sibling sexual assault commonly described sexual behaviours between siblings as normal or experimental. Some authors suggested that the sexual behaviours were not exploitative unless the perpetrator (generally a brother) was at least 5 years older than the victim-sibling (de Jong 1989). Finkelhor and Hotaling (1984: 31) argued that sexual abuse should be defined as: "... 5 or more years [age difference between the victim and offender] for a child 12 or under; 10 or more years for a child 13-16 ... [and] as a result of force, threat, deceit ... no matter what the age of the partner."

Authors now suggest that this age difference restriction is inappropriate and that the important factor is the power imbalance between the two siblings. This is because "manipulation and coercion" (McVeigh 2003: 117) can also occur between those close in age. In research by Doyle (1996) of 12 adult females who were undergoing therapy for brother sexual abuse in their childhood, four females who were older than their brothers were interpreted by Doyle as the victim. Laviola (1992) researched 17 women who had been sexually assaulted by an older brother in their childhood or adolescence.<sup>9</sup> In about half the cases, the age gap between them and their brother was 5 years or less; but all felt the sexual behaviour was coerced or forced.

Some propose that sexual experiences can be positive for some siblings. Finkelhor (1980) surveyed 796 undergraduate students, and 13 percent reported a sibling sexual experience. Of those who reported a sibling sexual experience, 30 percent reported a positive sexual experience; 30 percent, a negative sexual experience; and 40 percent did not "feel strongly either way." The most significant factors differentiating positive or negative experiences were the age gap between siblings, the offender's use of force, and the nature of the sexual activity (if the sexual experience only involved exposing genitals, then siblings were more likely to experience the behaviour positively). Finkelhor found that females reported more negative experiences than did males; this was because they were more likely to have been coerced or there was a wider age gap in their cases.

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<sup>7</sup> The terms "sibling sexual assault" and "sibling sexual abuse" are used interchangeably.

<sup>8</sup> As we were finalising this section, Stathopoulos (2012) published a comprehensive review of the sibling sexual abuse literature, which includes the thematic areas presented here and others (e.g., types of sexual abuse, duration of abuse).

<sup>9</sup> The interviews were conducted when the women were in their 20s to 40s, with the age of the victims (at the time the abuse commenced) ranging from 4 to 12 years.

Carlson et al.'s (2006) study of 41 adult survivors, found that 32 percent said that the sexual behaviour began "consensually or as curiosity," 22 percent said that it began through the use of force, 37 percent were unsure, and 9 percent gave other explanations (these were not discussed in the article). In Laviola's (1992) research of 17 female survivors, half felt a mixture of positive and negative feelings towards their brother and the sexual behaviour, whereas the other half felt completely negative about both the sexual behaviour and their brother. In a study of 72 victims referred to Child Protective Service in Quebec because of alleged familial sexual abuse (the victim's brother was the perpetrator in 24 cases), Cyr et al. (2002) concluded that brother-sister sexual abuse was as detrimental to victims as was sexual abuse by fathers or step-fathers. The authors also concluded that none of the cases of sibling sexual activity was a "positive developmental experience" for the victim.

It is important to note that the cases in Cyr et al. (2002) had been disclosed or discovered, and subsequently reported to Child Protective Services. In the research by Finkelhor (1980) and Carlson et al. (2006), the participants had not necessarily disclosed the sexual activity to anyone before the study and may not have identified the behaviour as abusive. In Laviola's (1992) research, the female participants had been undergoing psychotherapy, and therefore, there were more likely to involve participants who were significantly distressed by the offending.

What is known about victims and survivors varies, in part because researchers' samples vary: some samples are of those who may not have disclosed offences to anyone; others, of those who have reported offences to someone (police, therapeutic group, child protection); and still others, of those in clinical samples, who came into treatment via a variety of pathways, including many years later as adults. We do not distinguish sample types in our subsequent review, but this is an important element in understanding the profile of victims and survivors.

## **2. Effects on victims and survivors**

In the early years of research in the 1980s, some suggested that sibling sexual abuse was harmless, but more recent research emphasises its potentially harmful effects on victims and survivors (Doyle 1996; Laviola 1992; Owen 1998; Panagakis 2011; Phillips-Green 2002; Rudd and Herzberger 1999). Some of the immediate or longer term harmful effects include:

- Distrust of others
- Anger towards a brother, parents, or men in general
- Intrusive thoughts about the abuse
- Suicidal thoughts, self-harm, or suicide attempts
- Low self-esteem
- Difficulties having intimate or physical relationships with men
- Mental health problems (e.g., post traumatic stress disorder, anxiety, conduct disorder, depression, and eating disorders)
- Substance abuse

### 3. Family dynamics and disclosure

The following factors have been associated with sibling sexual assault:

- *Parental characteristics*: an absent or dominating father and an emotionally distant mother (Abrahams and Hoey 1994; de Jon 1989; Grant et al 2009; Laviola 1992; McVeigh 2003; Owen 1998; Panagakis 2011; Phillips-Green 2002; Rudd and Herzberger 1999).
- *Family environment*: parental substance abuse, a large number of siblings, poor supervision, older siblings taking a caregiver role, and chaotic home environments (Abrahams and Hoey 1994; Cyr et al. 2002; de Jong 1989; Grant et al. 2009; McVeigh 2003; O'Brien 1991; Panagakis 2011; Phillips-Green 2002; Rudd and Herzberger 1999; Tidefors et al. 2010).
- *Family values and practices*: rigid or patriarchal family values; traditional gender roles; physical or retaliatory discipline practices; and limited or inappropriate sexual education, or over sexualised family environments, or mixed messages about appropriate sexual behaviour (Abrahams and Hoey 1994; Ballantine 2012; Laviola 1992; Owen 1998; Panagakis 2011; Phillips-Green 2002).
- *Other abuse*: previous or ongoing partner violence toward women, physical or emotional abuse by one or both parents toward their children, and mothers who were sexually abused as children or youth (Abrahams and Hoey 1994; Cyr et al. 2002; Grant et al. 2009; McVeigh 2003; O'Brien 1991; Owen 1998; Phillips-Green 2002; Tidefors et al. 2010).

Several factors affect a victim's decision (or ability) to disclose sexual abuse when it is occurring. Some are concerned that if they do disclose, they will be abused or punished by their parents; others anticipate they will not be believed or that they will be blamed for the sexual abuse (Carlson et al. 2006; Doyle 1996; Laviola 1992; McVeigh 2003; O'Brien 1991; Panagakis 2011). When victims do disclose, they report being blamed, yelled at, or lectured. They may experience other negative consequences such as a lack of an appropriate parental response to ensure their safety (Laviola 1992; Phillips-Green 2002; Owen 1998; Rudd and Herzberger 1999). Some have difficulty attributing blame to an offender: they may think that they are responsible for the sexual behaviour, do not "deserve help," or are in the wrong (Doyle 1996; McVeigh 2003). Finally, victims may not want an abusive sibling to be punished or are concerned that disclosure will cause family friction (Doyle 1996; McVeigh 2003; Panagakis 2011). Doyle (1996: 25-26) suggests, for example, that victims are concerned that "disclosure would cause double pain. Not only would the parents have to cope with the distress of finding out that their daughter was the victim of sexual molestation, but also that one or more of their sons was a sex abuser."

In Carlson et al.'s (2006) study of 41 adult survivors who had a sexual experience with a sibling during childhood,<sup>10 19</sup> percent said they had disclosed the sexual activity to someone while it was occurring. When participants were asked why the sexual activity ended, 8 percent said that it was because the abuse was discovered by someone. More often, the abuse stopped when either the abused sibling (10 percent) or abusive sibling (25 percent) left home, or when the abusive sibling began another sexual relationship (10 percent). Other reasons

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<sup>10</sup> In this sample, 76 percent of participants said the sexual experience was initiated by the other sibling, 7 percent said that they initiated the sexual activity, and 17 percent were unsure who initiated the sexual activity.

(not specified by the author) were given by 30 percent, and the remaining participants could not recall why the sexual activity stopped.

#### **4. Responses: disclosure and handling by legal authorities**

Stathopoulos (2012: 8) suggests that the prevalence of sibling sexual violence is not known, but it is “more common than other forms of intra-familial sexual abuse,” and perhaps as much as “three to five times” higher as “the most frequently cited form ... father to daughter child abuse” (citing Caffro and Conn-Caffaro 2005; see also Ballantine 2012: 56). Authors have said that sibling sex offences are less likely to be reported to the police; and if they are reported, they are less likely to move further into the criminal justice process to prosecution, conviction, or sentencing (Owen 1998 citing O’Brien 1991;<sup>11</sup> Ballantine 2012: 56-57).

We are not aware of any attrition study<sup>12</sup> of sibling sex abuse; however, authors have inferred a greater degree of attrition of sibling cases from the legal system, compared to other types of youth sex offences, by comparing the share of sibling cases from different samples of data. For example, data from the Children’s Protection Society in Victoria, which handles mainly “non-adjudicated” cases, shows that sibling sexual offences were 43 percent of the cases. However, the profile of proved cases adjudicated in the Children’s Court in Queensland, which were referred to the Griffith Forensic Youth Service (GYFS), shows the sibling share to be 18 percent. This difference led GYFS researchers to infer that sibling sex cases were less likely to be charged and sentenced compared to non-sibling cases (Rayment-McHugh and Nisbet 2003). Citing other studies, Ballantine (2012: 45) has also said that “of cases that are reported and confirmed, only a small proportion are adjudicated.”<sup>13</sup>

Sibling cases may be less likely to be reported or disclosed than other types of sex offences, but little is, in fact, known about what happens once they are reported and charged by the police. The SAAS dataset, which analysed all South Australian youth charged sex offences over a 6.5 year period, can shed further light on case attrition, once cases are charged. As we shall see, the findings challenge previous research, as reported by Rayment-McHugh and

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<sup>11</sup> Owen (1998) said that sibling cases were less likely to be charged than other types of sexual abuse cases, citing M. O’Brien (1991). However, O’Brien (1991: 88-89) said that of those cases that were in the clinical treatment program he studied in Minneapolis, the pathway of sibling cases into the program was least likely to be “court-ordered” (“adjudicated”) compared to other types of youth sex offences, although he provided no tabulated evidence of this in the paper. To O’Brien, this was evidence that legal officials were not taking sibling abuse seriously. More recent commentary in Australia has proposed that movement of offenders into therapeutic interventions may be more important and effective for them (and for victims and families) than a solely criminal justice response (Kambouridis 2012; McNevin 2010; Stathopoulos 2012).

<sup>12</sup> Attrition studies chart the journey of cases from report to the police to the final outcome of a case, with the aim of determining where in the legal process, cases are “dropped” or “filtered out,” and of estimating the likelihood of conviction, once cases are reported to the police (see Daly and Bouhours [2010] for a comprehensive review of rape case attrition in five common law jurisdictions).

<sup>13</sup> It can be unclear what researchers are referring to when they say that cases are (or are not) “adjudicated.” Does this refer to cases reported to the police, but diverted from court or not proceeded with by the police, or to cases that were prosecuted in court, but did not result in conviction? Or does it refer to cases reported to health or counselling services, but not to the police? A review of Australian treatment programs by W. O’Brien (2010) distinguishes programs that are part of youth justice responses (“adjudicated”) and those that are “community-based” (“non-adjudicated”), but the latter also includes those that are diversion from court to conference, such as youth justice conferences in South Australia and Queensland.

Nisbet (2003) and Ballatine (2012) on the share of cases adjudicated once they are reported, compared to other youth sex offences.

### **5. Comparison of sibling and other “hands-on” sex offences**

Drawing from the SAAS data of all youths charged with sex offences from 1995 to mid-year 2001 in South Australia (N=385), 59 (15 percent) were charged with offences against siblings, 266 (69 percent) with non-sibling “hands-on” offences, and the remaining 60 (16 percent), with “hands-off” (or “no touch”) offences. The latter category includes a variety of public indecency and exposure offences. Appendix II analyses *only* “hands-on” (or “touch” offences) and compares sibling cases (A) with non-sibling cases (B). Appendix III compares the profile of sibling cases in the SAAS data with a very large set of sibling cases reported to the police in the United States.

From Appendix II, we see that compared to other hands-on offences, sibling cases were significantly more likely to have youth offenders who showed remorse during the police interview and who made some or full admissions at the interview; and in part for that reason, they were more likely to be referred to a conference. As we would expect, victims in sibling cases were much younger (on average 7.7 years) compared to victims in non-sibling cases (12.6 years), and the age difference between the victim and offender was considerably wider (6.6 years compared to 2.6 years).

The offending youth’s sex was almost always male (98 percent) in both the sibling and other cases, and the victim’s sex was predominantly female (73 and 82 percent of sibling and non-sibling cases, respectively). There was a significantly lower share of Aboriginal youth in sibling (2 percent) than non-sibling cases (11 percent).

Sibling cases were far more likely to be multiple incidents with one or more victims: in 64 percent of sibling cases, the abuse was on-going, compared to 23 percent of other offences. For all cases, the average duration of victimisation was longer in sibling (26.6 weeks) than non-sibling cases (9 weeks). However, when comparing the sub-set of cases for which the abuse was on-going for both groups, the duration did not differ significantly, ranging between 39 and 41 weeks. Another analysis revealed why this was the case. When combining sibling and relatives as one category and comparing that group to non-sibling cases, the mean difference in duration neared significance, ranging from about 33 weeks (non-sibling cases) to 48 weeks (siblings and other relatives).<sup>14</sup>

As we would expect, sibling abuse predominantly took place in the youth’s and victim’s home (76 percent of cases), which distinguished it from non-sibling cases (3 percent). Again, as we would expect from the literature, a significantly higher share of sibling cases involved the youthful offender manipulating a position of trust (83 percent) compared to other types of offences (45 percent). Victim resistance was less likely in sibling cases, in part, because the abuse was more often on-going, although resistance had occurred in 34 percent of cases. In 24 percent of cases, the abusive sibling threatened to harm the abused sibling if s/he did not comply or reported the offence, although it was not statistically significant compared to other offences (14 percent).

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<sup>14</sup> We note that it may be somewhat artificial to separate sibling cases from those involving cousins or other family members in understanding patterns of victimisation and offending.

Importantly, we find that *sibling cases were significantly more likely to be proved (83 percent) than other types of hands-on offences (62 percent)*; and of those cases that went to court, *sibling cases were also more likely to be proved in court (72 percent) compared to other offences (45 percent)*. Thus, the SAAS data suggest that once sibling cases were reported to the police, they more often resulted in conviction (that is, they were “proved”) than other offences, in part, because they had a higher rate of admissions to offending by youths. Further, we find that, overall, a higher share of youth in sibling cases participated in (or were referred to) the Mary Street treatment program (68 percent) compared to youth in other offences (23 percent). This sibling/non-sibling difference was also strong for the smaller set of cases finalised as proved in court: 56 percent of youths in sibling cases, compared to 16 percent of youths in other cases participated in (or were referred to) the Mary Street program. *What this means is that sibling cases in South Australia are treated “seriously,” both in a legal and therapeutic sense.*

South Australia may be an unusual jurisdiction in Australia (or elsewhere in the world, except perhaps New Zealand) in that it has a long standing diversionary program that includes youth sex offences, coupled with specialist treatment services.<sup>15</sup> This fact may explain what we see in the SAAS data, although we cannot be sure because there is no other relevant comparative data. We do know that a variety of legal and therapeutic responses to youth sex offending are occurring in Australia in the Youth or Children’s Courts and in a range of community-based settings (O’Brien 2010). Precisely how these responses affect the handling of sibling and non-sibling sexual abuse cases is not known.

Reported elsewhere (Daly et al. 2013), a sophisticated analysis of re-offending was carried out with the SAAS data, which took into account varying time periods for re-offending (these ranged from 6 months to 7 years). That analysis did not focus on sibling cases alone because of an insufficient number of cases. Four categories were created: child and sibling victims (Group 1); rape, attempted rape, and serious indecent assault (Group 2); less serious forms of indecent assault (Group 3); and offences with no physical contact (Group 4). We found that youths charged with Group 1 and 3 offences had a significantly slower time to re-offend than the two other offence categories. However, the strongest predictor of re-offending was the youth’s previous offending (that is, before the SAAS offence). The analysis of re-offending considered all types of offences (both sexual and not). There were too few youth with new sexual charges to analyse the factors associated with sexual re-offending; however, unlike the factors associated with general re-offending, there was no relationship between prior offending and sexual re-offending.<sup>16</sup>

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<sup>15</sup> Although New Zealand has been using youth diversionary conferences for all types of offences since 1989, we do not know if the sex offence cases have been supported by specialist sex offender treatment programs. Queensland introduced youth diversionary conferences for sex offences (with a specialist treatment program) in 2005, but conferences for sex offences have been carried out in South Australia since 1995. With passage of the Therapeutic Treatment Orders legislation in Victoria (2005), those working at the Gatehouse Centre in the Royal Children’s Hospital began to take “a more holistic approach” in responding to sibling sexual abuse (Kambouridis 2012: 2), one that sought to change young people who sexually offend “to see their future self and future behaviour differently, which is better ... than punishing them” (p. 4). Pre-trial diversion options for adults who offend against family members have been available in New South Wales since 1989 (Pratley and Goodman-Delahanty 2011). It would be useful to know how this option has played a role, if at all, in increasing admissions to offending or conviction rates for adult intra-familial sex offending.

<sup>16</sup> During the follow-up period, 54 percent of youth were charged with further offences: 9 percent with a sexual offence; 17 percent, a violent offence; and 28 percent, a property or drug offence.

## 6. Restorative justice

Restorative justice processes, such as diversionary youth justice conferences, may enable increased admissions to the police (McAlinden 2008) and ensure that “something happens” (Daly 2006) in terms of an official response. Others have proposed that early admissions and early interventions can be beneficial to victims and offenders (McNevin 2011; Stathopoulos 2012).

When we review critical commentary on using restorative justice in sexual violence cases (e.g., Cossins 2008, response by Daly 2008a), we find it may not be germane to youth sex offending, in general, and to sibling sexual assault, in particular. Victims are often too young to attend and to participate in a conference (although some do); thus, concerns with “revictimisation” of the victim or “power imbalances” between an offender and victim during the conference process may not be apt. However, some criticisms are relevant in that as an informal process, youth justice conferences may:

- Trivialise the serious nature of the offence or result in outcomes that are not serious enough.
- Allow offenders to diminish guilt, trivialise the violence, or shift blame to the victim.
- Not promote offender accountability or be seen as a “soft option.”<sup>17</sup>

Against these concerns, there are potential benefits. For example, youth justice conferences may

- Give victims (through a victim representative) the chance to voice their story and to be heard.
- Allow a victim’s experiences to be validated and to be acknowledged s/he is not to blame.
- Create opportunities for family relationships to be repaired, if desired.
- Encourage an offender to take responsibility for their behaviour.
- Provide an appropriate context for family, friends, and the community to censure the offending behaviour.<sup>18</sup>

In addition, an option of diversion from court for admitted youthful offenders may break a cycle of abuse. An offender may be more likely to come forward (make admissions or plead guilty) and receive counselling or treatment, if they know they will not receive a conviction for an offence or a harsh penalty. A victim and family members may be more likely to report offending to the police, once the behaviour is disclosed or discovered, because they see a practical or positive outcome, not one that excludes the offender from society or the family home.

In intra-familial sexual assault cases, victims (and their family members) face distinct problems and needs, which are not easily encapsulated by concerns with “power dynamics” and “revictimisation of victims.” In reflecting on what are appropriate socio-legal responses, it is crucial to have in mind the ages of victims. From the SAAS dataset, the age range of

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<sup>17</sup> Other concerns such as conferences may result in divided loyalties toward victims by friends or family members, or not reduce re-offending are also relevant to cases if they go to court.

<sup>18</sup> This analysis of critiques and potential benefits of conferences, including all the relevant citations to the literature, is summarised in Daly and Curtis-Fawley (2006), Daly et al. (2007a; 2007b).

victims in sibling cases ranged from under 1 year to just under 15 years (mean 7.7 years). From the In-Depth Study, we find that it is the victim's representative or supporter (typically a parent, a mother), who is relating directly to socio-legal processes, and attempting to mediate between these and her knowledge of the young victim's justice needs or interests. In addition, a parent (typically a mother) may be both the victim's and the offender's representative or supporter. Few parents want a harsh response to their sons who sexually offend; rather, they want to see the young person change, get help, and ultimately become reunited in the family home. Thus, the standard critical analysis of conferencing in youth sexual offence cases (e.g., that by Cossins 2008) may have little relevance in these cases. At the same time, the sibling sex offence cases may reveal other types of problems that should be considered.

## **B. The cases**

### **Overview**

In all four cases, the offender was male and older than the victim. Except for one case of sexually victimisation of a male and female child, the other cases had just one female victim. The average victim age was 6 years, and that of the youthful offender, 13.25 years. Victim-offender differences in age ranged from 6 to 9 years, with a mean of 7.25 years. Two cases were of digital rape; and two were touching a victim's genitals and stimulating sexual intercourse. In three cases, we can be sure that the abuse was ongoing, and in a fourth case, it was likely to have been ongoing. The length of time the abuse was occurring cannot be given with precision, but we estimate it was a few months to 3 years. All the offending occurred in the family home, and when parents (and, in some cases, other siblings) were present in the house.

### **1. Case #1, Ben and Marie: Secrets in the closet**

#### **Key people in the case:**

**Offender: Ben, 14 yrs**

**Victim: Marie, 8 yrs**

**Sharon is the mother (and supporter) of Ben and Marie.**

#### ***The offence***

At the time of the offence, Ben was 14 and lived with his two biological sisters, Marie (8 years, the victim) and Claire (nearly 6 years). When Marie was in Ben's bedroom closet with a blanket over her head, Ben pulled her pants and underwear down and pushed his finger into her vagina. She said it hurt, and she told him to stop, but he wouldn't. Their mother Sharon came to the bedroom, and Marie told her what happened. Marie told the police that Ben had done the same thing to her before, since she was 5 years old, but she could not give dates or details.

Sharon said she was in the kitchen when she saw Claire walking down the hallway. She asked where Marie was, and Claire said that she was in Ben's bedroom helping him with some toys in the closet. Sharon went immediately to Ben's bedroom, and as she opened the door, she saw him jump back from the closet with a surprised look on his face as if to say, "I haven't done anything." She saw Marie getting out of the closet with her underwear and long pants down; and as she was getting out of the wardrobe, she pulled them up. Sharon told Marie to go to her room. She then chastised Ben for his behaviour, which she assumed was sexual. She then spoke to Marie, asking why she had not called out. Marie was upset and crying; she told her mum that she could not call out because Ben had a blanket over her face. Sharon hugged and reassured her. She removed Marie's pants and noticed a small amount of blood on the inside of the underwear and a small scratch on the right side of her vulva. Sharon did not report the offence to the police right away, but she did report it to Family and Youth Services, who in turn reported it to the police.

Ben admitted to the charge of rape (digital rape) and told the police "he had done it" to Marie before; he was unsure how often, but estimated five times. During the police interview, he was not forthcoming with information, nor could he provide an explanation for his behaviour.

A week later, he was placed in a foster care home and started to attend counselling at the Mary Street program. Ben has also “terrorized” (the Youth Justice Coordinator’s (YJC) term) Claire by putting her in a blanket box and sitting on it. Sharon is worried that Ben will sexually abuse boys, a comment that reflects a previous incident (see below). A survivor of rape (by an uncle in her teens) and domestic violence (by her ex-husband), Sharon believes that Ben’s cruelty and abuse of his sisters is caused by her ex-husband’s violent behaviour.

Sharon said that it took a week or two after the offence “to get Marie to settle back into wearing pyjamas when she went to bed” because she wanted to go to bed fully clothed. She had “really rough nights ... restless in sleep.”

### ***Secrets***

There are family secrets that Sharon and others are not disclosing, about which only inferences can be drawn. Sharon said she is “more angry with Ben’s father” than she is with Ben, “I’m so angry, well, we won’t go there.” She said that “part of the anger” is that Ben’s father is “not being asked to do what Ben’s being asked to do ... I don’t see anything having been done for [Ben’s father] to own up to what he’s done to these guys.” The referent to “these guys” is likely to his sons or daughters; but Sharon doesn’t say what he has done to them. Sharon’s questions about why Ben assaulted his sister will not be answered:

until Ben can come to grips with it all. He told [his foster carer] that he was angry, and he just wanted to hurt somebody ... He was angry with his father, but it doesn’t excuse him for the way he channelled his anger. What’s the point of asking him “why did you do it?” I’ll never know ... and it will drag up open wounds that are probably best left closed.

The precise nature of these “open wounds” was not clear.

### ***Before the conference***

The YJC tried to organise a home visit with Sharon before the conference, but she said she was busy and would meet him on the day of the conference. The YJC had a home visit with Ben, which lasted for 1.5 hours but it “felt like about 6 hours ‘cause it was worse than going to the dentist. He was truly a strange young man.” Ben gave no priority to the conference, was not taking responsibility for the offence, and was not remorseful. In the YJC’s view, Ben was acknowledging the offence mainly to avoid court; he seemed to have an “unbelievable fear of court. ... Most 14 year olds know the youth court, what’s going to happen ... Just walk in smiling and walk out. It’s a weird one.” Although Ben missed having contact with his sisters, he did not miss living at home because he has greater freedom at his foster placement.

The YJC said that Ben trivialised the offence and did not see anything wrong with what he did. “This kid doesn’t see anything wrong with this because he’s either witnessed other people doing it or it’s happened to him.” The YJC had an “uneasy feeling” sitting next to Ben, wondering “where to from here.” Ben did not appear to be worried about or sorry for what he did. His mother had “belted” Ben with a leather belt after the offence, and the YJC thought that Ben viewed this as “being even” in that he believed that he did not hurt Marie as much as he was hurt by the belt.

The YJC was concerned by Ben's response to the YJC's comment, "I understand this has happened before." Ben said, "ah yeah, and it will happen again." The YJC probed this response further, "what do you mean about it will happen again?" Ultimately, the YJC came to the view that Ben "enjoys getting his younger sisters into dark wardrobes or cupboards until they scream. ... What I read into it was when he turns 17 and has a car, he will enjoy dragging people into the boot of the car." Recognising that "it's a horrible way to think," the YJC said "he's got me to that point where I believe it's realistic." The Police Youth Officer (PYO) was also concerned, saying "this kid is weird and wacky" after having read a psychological report on him.

The conference date was delayed because Ben was not ready to participate. He had not "opened up" to his Mary Street counsellor for 6 to 8 weeks. Sharon was annoyed by the delay, saying that "the victim needs to see the outcome a lot quicker for their own sake and ... to get on with the healing that they need to do."

The day before the conference, the situation changed dramatically when the PYO discovered that Ben had been charged with rape the year before, although the charge was subsequently withdrawn. According to the YJC, Ben was in the toilets at school, and he jumped over the wall to the stall next to him, dropped his pants and said "there you go have some of that," and the other boy felt "helpless so he did, but when the school and authorities looked into it, the charge was withdrawn because it was felt there was a level of consensual behaviour ..." This charge did not come to light earlier because there had been different spellings of Ben's name in the police records. This information had a profound impact on the PYO's orientation to Ben at the conference: she took a "more structured" approach and was "very straight down the line." She feared that if Ben "had raped before, he'd rape again." The PYO and the YJC "had to control our negative thoughts about Ben," according to the YJC.

### *At the conference*

On the day of the conference, the YJC had "three niggles" with Ben—things he did that attempted to assert his presence and authority—even before the conference started. When Ben walked into the room, he sat in a chair outside the circle; he did not take off his baseball cap when asked to do so; and he avoided communicating by playing with his carer's mobile phone. The conference participants were Ben, his foster carer (his supporter), his Mary Street counsellor, and Sharon (representing Marie). Although others had been proposed by Sharon, including several social workers, the YJC believed that this would have made Ben shut down and could re-traumatise Marie. Ben's older brother, who was to be his second supporter, had planned to attend, but at the last minute, decided not to come. The conference lasted for 2.5 hours, with a 10-minute break.

According to the YJC, the PYO had "almost blocked off any idea that Ben could possibly change, and maybe that was realistic, maybe I was being naïve thinking that today will change him ..." At the beginning of the conference, the PYO passed a note to the YJC that listed certain elements she wanted to see in the undertaking. Sharon said that the PYO had told her that she had "fought tooth and nail to not have a family conference," and she "appreciated [that the PYO] was upfront and honest." Sharon said she "was concerned for Ben 'cause I knew either way it was going to be confronting." Although she understood that it can be difficult for police officers to be fully impartial, Sharon noted that the PYO seemed to have a "set idea of what she expected of Ben."

**Ben**

Ben was not forthcoming at the conference, the YJC recalling that it was “like pulling teeth. The answers we got were usually ‘um, yep, nup, don’t know,’— a lot of ‘don’t knows.’ Most people got frustrated ... [although] everyone was trying really, really hard to get information,” but Ben was “blocking stuff.” He never referred to his sisters by name; instead, he called them “the girls,” which the YJC thought was a “comfort thing.”

Sharon’s description of the offence had a strong impact on Ben. When she talked about her daughters, Ben became agitated and was fighting back tears, although he did not cry. Sharon spent most of the time describing how the offence affected her, but she did not describe the effects fully because:

I don’t think Ben is quite ready for that ... Maybe nobody’s ever ready to hear the full effects ... It would have been too much for him, but if he was older—if he was 19 or 20— then yes, I would have.

The YJC said that Ben behaved in a controlling fashion:

He was controlling the information. [During the conference] he was a closed book, he didn’t want to answer ... He presented as a kid who was totally disengaged by the process. Before the conference, [he was a] bright, bubbly kid, happily talking to the police officer, happily talking to me, happily talking to mum. During the conference, he clammed up, absolute silence. ... But just while I was writing up [the agreement], ... he turned into a social kid again ... If he’d been more open during the conference, it may not have gone for 2.5 hours, and it may have been easier for mum to walk away with some sense of that he was acknowledging some of this ...

The YJC believed that Ben trivialised the offence. When asked on a scale of 1 to 10 to rate its seriousness, with a 1 being stealing a mars bar, Ben rated his actions as a 7.5. When asked to rate the illegal use of a motor vehicle, he rated it 10. The YJC tried to explain the difference between an object and his sister, but Ben did not seem to understand. Sharon believed that Ben could not trivialise the offence because the PYO was laying it “straight down the line” that there would be a police record of the conference.<sup>19</sup>

Although Ben was paying attention during the conference, the YJC thought that he drifted in and out: “He was listening ... You could see he was thinking when he was asked a question. You could see the cogs turning, but he would always come back with ‘I don’t know’ ...” Sharon believed that Ben “did pretty good all things considered,” although she shared the YJC’s view that Ben “avoided as much as he could because he did not want to rehash what had happened, what he’d done. I don’t think he’s quite ready to face that yet ...” She could not be sure if Ben was remorseful because “he’s one of those kids you’ve really got to study him and really prod and pry to get to what he’s feeling.”

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<sup>19</sup> Although no conviction is recorded when a case is finalised by a conference, the police do include conferences and formal cautions in a youth’s criminal history data. This is what the police officer wished to impress upon Ben.

***The PYO***

Sharon thought the PYO was “a bit intense” toward Ben:

I just felt she was maybe a little bit more intense than needed ‘cause I mean this is a 14 year old kid, not an 18 or 19 year old who really should know a lot better. It’s not excusing Ben, but I just felt she was just a bit intense for him.

The PYO “laid it fully black and white straight down the line ... It was like a bomb had been dropped and Ben was in the bomb zone. He was in ground zero. He copped it.” Sharon said that the PYO “was very confronting, [but] she did her job well:”

She aimed both barrels at Ben. Her purpose was to make him understand how serious this was, how serious she was taking it. ... She said to him, “If I even see a tiny reference about you ... I know you now, don’t ever let me see anything of this nature again.”

Sharon was unsure if the PYO’s approach would have the desired effect on Ben, but acknowledged that “if those tactics work and she keeps a lot of kids on the straight and narrow and a lot of kids safe, then good luck to her, I applaud it.” She said that Ben was a “frightened little bunny” in the conference not only because “he knew he was in trouble, but also because he was sitting near the PYO, who said things like “don’t ever let me see anything of this nature again” and “stay clean.”

***Ben’s statement***

Ben had prepared a written statement (his “acknowledgment”) with the Mary Street counsellor, but he would not share it at the conference. According to the YJC, Ben “held that piece of paper all the way through the conference. Every time we asked if [he would read it], he said he wasn’t willing to read it. We couldn’t forget that it was there.” Toward the end of the conference when discussing the agreement, there was a short break. Ben’s counsellor said to him it would be useful to share the statement to show others that he had changed. There had been discussion on who should read the statement, but no one seemed to be the “right person” to do so, not the YJC or PYO, nor his counsellor or carer.

“But then mum got up,” and Ben let her read the statement. Sharon thought that Ben was too scared to read the statement, and by asking her to read it, he was showing he was sorry for what he did and was taking seriously what he had to do. The YJC thought Ben was being manipulative by withholding the acknowledgement until just before the agreement was written up. However, when asked if there were any restorative gestures at the conference, the YJC pointed to this moment in the conference as significant for Ben and Sharon. Writing the acknowledgement itself was also a “big step for him.” The file does not have a copy of the statement, but based on the interviews, it appears that Ben acknowledged that what he did was wrong, that he needed to take steps to address it, and that he had to comply with visitation rules.

There was no expectation of an apology at the conference because it was “too early,” but Ben apologised for not being able to make an apology, which the YJC believed was directed mainly to his Mary Street counsellor. The YJC recalled that when Sharon read the statement, “she stopped halfway through” and acknowledged to Ben that the points he made “seemed

very reasonable points, [particularly that] contact with the girls had to be prearranged and the girls had to consent to it, and that it all had to be supervised.”

The YJC thought that in the statement, Ben took some degree of responsibility for the offence by acknowledging that what he did was wrong and saying he needed to do something to change his behaviour. But on balance, he believed that Ben made “excuses” for his behaviour, and although he was somewhat remorseful, he was self-centred. Sharon had a more positive view of the statement:

I’ve seen him grow in a lot of ways that ... he hadn’t grown before ... I know that he’s smartening himself up, and he is trying to build a life. He knows that it will never be the same, he knows he will never be able to come back home full time, and he’s acknowledged that the girls need space from him.

Sharon believed that while Ben *accepted* responsibility, he had not *taken responsibility* for his actions. He “agreed that, yes, this happened, but he’s not saying that this is what I did:”

It’s going to be a while before he actually acknowledges that “yes, I did this and that and this is how.” ... He knew he did wrong, and he knew he had to face the consequences, but facing that consequence is really uncomfortable. That’s probably the best way to describe it.

She believed that “you can’t heartfelt apologise unless you take ownership of what you’ve done, and I think [Ben is] doing that.”

### **Sharon**

Although Sharon received information about what would happen at the conference, she emphasised that “no matter how much theory you have got ... once you get in there, it doesn’t help. It’s like going into labour, you know.” When the PYO read the police report, which she did in great detail, Sharon said “I don’t know who did more squirming, Ben or me.” With reference to the rape charge, she said “it’s such a big big word for such a tiny word.”

She said that after the conference, “I fell apart about half way home. It took me a day and a half to get over it. But as far as the conference went and what the objectives were, I think it went well.” She said “[I] was sick to the pit of my stomach for about 2 days.” But “considering I went in there with not too many expectations, I came out with a lot of things resolved [for] Ben, but I’ve still got to pick up the pieces around Marie and ... around me.”

She saw benefits of the conference for Ben: “it became clearer how serious it was, and what was expected of him, and boundaries were very clearly drawn, which he needed.” But when asked what the benefits were for her, Sharon said “I don’t know, really, no, don’t know.” The offence itself was especially distressing for her because it occurred within the “immediate circle of family” in her house, and it had occurred several times. As mother of the offender and victim, Sharon wanted “to be there for both of them.” Trying to do so “really stretched” her because “it’s really important that both [children] know they are loved:”

He’s my son, and that’s been the worst part of this whole thing. If I could say one really bad thing, that’s probably the worst. ... Ben’s right in that family circle, and

that's what I find has been the most difficult of all this. ... When it's somebody who actually lives in your house, it is so much more difficult ... It changes everything. And if you've got to be there for both of them, it makes it really difficult. That really stretched me, well it has stretched me to my limit, it really has. There are times I just want to go "this is too hard, I don't want to deal with it." ... What could I do? They're both my children, and I love both of them. ... For both of them, it is really important that they both know that they are loved no matter what's happened.

When asked to consider the relative benefits of conference and court, Sharon thought that "it was handled well" at the conference, and although the court process may have been "more formal, I don't know whether it would have been any less intimidating." She thought that an advantage of the conference process was that the "perpetrator's on the hot seat rather than the victim, especially when you've got somebody like [the PYO] standing up for [the victim]." She also believed that "the victim would probably feel a bit safer [compared to court, where] you've got your perpetrator's lawyer going off at you." In the conference, the offender is "the one that's got to be listening, and [the victim] is not being grilled, and I think that's a very good idea."

The YJC recalled that at the end of the conference, Sharon said "it was a good process because it was the first time she'd been able to try and see where Ben was coming from, the first time that Ben was told in such a very plain way that the rest of the world doesn't accept what he's done." In her interview, Sharon made the same point, saying that the most important thing that happened at the conference was that, "Ben got a grip and a handle on ... how deep in trouble he was 'cause I think he was in denial for a long time. He knew what he had done wasn't right, but I don't think he knew the extent ..."

Sharon was unsure if Ben would offend in the future. On the one hand, "he'd be extremely stupid if he did, especially after what [the PYO] said, he would be very stupid if he ever got himself into a situation particularly with young boys and didn't walk away from it."<sup>20</sup> On the other hand, she could not be sure that Ben would not "get nasty" again because "you don't know what's going to happen in the future, you know something might just snap, ... but ... he's doing a lot of work to stopping this happening again ..."

### ***Family dynamics and blame***

Sharon thought she had "gone down a little bit in the trust department" with Marie because she "wasn't there to stop it when it first started 'cause I didn't know, and she didn't feel she could tell me for whatever reason." Sharon said that Ben has "broken trust big time" with his sisters and herself. "It is going to be a long time being repaired, if ever repaired ... [the relationship] will never be the same again." She "can't imagine the burden of guilt that Ben must have been feeling and what he must have been living through, knowing that any time he was going to get caught. I think that he was definitely more scared of me finding out than me of him."

For Sharon, the "worst part of this for anybody ... is having to tell your story so many times." She had to have yet another psychological assessment. "I've been getting really fried with the repetition of me being asked time and time and time again. I'm going, 'look guys, you

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<sup>20</sup> Her reference to "young boys" is likely to the rape charge the previous year. However, it is unclear from the interview and the file whether Sharon knew that the PYO was aware of Ben's previous sex charge.

know you've got reports; read them'..." She said it was "so much harder for women to get through ... because they're the emotional carers of the family."

The YJC believed that Sharon did not blame herself for Ben's actions. Rather, she "very easily put that back to dad. Dad was the violent partner, the family had always grown up with a domestic violence haze ... Ben's [behaviour] would be just a consequence of 'living in a house where the men rule' and that was an interesting statement [she made]." Sharon did not think anyone at the conference blamed her for the offence, but it was a hard question for her to answer "especially when people ask me ... why didn't I report it straight away." However, she was not asked this question during the conference. Although Sharon was generally positive about the conference process, she was not able to say all that she wanted to say "because of the formality of it and respecting the speaker turn taking ... A lot of things came up, and you're thinking about them, ... but if you don't have a pen and paper to write it down, [you can] forget it."

### *Conference agreement*

The conference agreement had many elements for Ben:

- to attend high school throughout the next school year
- to participate in Mary Street counselling once per week for 12 months or as agreed by the counsellor
- contact with Marie and Claire must be by their agreement and pre-arranged with Sharon for the next 12 months
- to write an acknowledgement letter to Marie and Claire, regarding what happened and a safety plan
- to attend a "just consequences" educational program at the Magistrates' Court
- to be of good behaviour for 12 months

The agreement reflected the PYO's desire to set strict conditions for Ben; with threats to future legal liability should he fail to comply. A "good behaviour" order is an unusual element in a conference agreement in South Australia. Analysis of the SAAS data finds that just 6 percent of conference cases have this element, compared to 75 percent of court cases (Daly 2006: 348). Furthermore, a rape charge admitted to and finalised by conference or proved in court is also unusual: in just 5 percent of finalised conference and 8.5 percent of proved court cases was rape the offence of disposition (Daly 2006: 343).

Sharon believed that Marie and Claire were given "a lot of power" from the conference agreement because they had a "veto" on whether Ben can visit them. She thought that the agreement process was fair to Ben:

I think that he accepted that they were fair enough, that it wasn't too much being asked of him, especially when [the PYO] said she could [impose] anywhere up to 300 hours community service. I think he went, "oh, ok, I'm getting off pretty light, aren't I?" So, I think he handled it well. I think it was pretty fair.

***Reflections on the conference***

Had the police known about the previous rape charge, this case would not have been referred to a conference. However, the YJC believed that the case was appropriate for a conference: there were safety measures in place for Marie and Claire, and Ben would continue with counselling. He said that Ben “acknowledged that it was harder to go to the conference and sit there and listen to it and be a part of it than if it had gone to court ... because he said, ‘I would have just had a lawyer.’” This came up when Ben was having difficulty reading his statement. “He kept saying things [like] ‘it’s harder to do than I thought it would be.’”

***Postscript***

Ben complied with all the elements in his agreement; and 3 years after the conference, the police criminal history shows no further arrests or proved offending.

*Case #2, Jack and Lucy: Blurred boundaries of victimisation and offending*

**Key people in the case:**

**Offender: Jack, 12 yrs**

**Victim: Lucy, 6 yrs**

**Joan is the mother (and supporter) of Jack and Lucy.**

**Helen is Joan's sister.**

*The offence*

Lucy was 6 years old when her half-brother<sup>21</sup> Jack (12 years) pulled down her underpants and placed his hand around her vagina. He then put his finger inside her vagina. This occurred in Jack's bedroom. Also living in the household are Lucy's two sisters, aged 10 and 3. Jack's father lives elsewhere. The details of Jack's father's and mother's separation are not known, except according to the Youth Justice Coordinator (YJC), "there are problems" between them. Lucy was physically examined one month after the offence was disclosed, but there were no signs of injury. Jack went to stay at his father's house; and when his father learned what happened, he reportedly said to Joan that it was "just a bunch of lies." After living a short while with his father, Jack was placed in foster care and began to attend counselling at Mary Street. Lucy has also been receiving counselling since the offence.

When Jack was questioned by the police 4 months after the assault was disclosed, he admitted to the offending and was charged with unlawful sexual intercourse with a person under 12. His mother Joan who was with him at the police interview, said that it "was so hurtful for me ... having to hear what he'd done and hearing him actually confess and then having to come home and face my girls. It was just, it was just really hurtful. And when I did come back, I thought I should never have done that."

The full nature of Jack's offending and how the offence was reported to the police are not clear. A month after the incident, Helen (Joan's sister) was told by her 6-year old daughter, "Jack had sex with Lucy." Helen brought her daughter to Joan, who repeated the disclosure, "Jack had sex with Lucy." At that point, Joan said "it gets all hazy." She spoke to Lucy, who got upset. She then rang Crisis Care, who told her to ring the Women's and Children's Hospital; she and Lucy went there and spoke to a doctor, but Joan cannot remember if she told the doctor what had happened.

Joan said that Helen had talked to the police at some point "cause originally [it was believed that] Jack hadn't only touched Lucy," but also two of Helen's daughters. Joan said that "Jack confessed to touching Lucy and refused to even acknowledge that he did anything to Helen's girls, which is why they only spoke to Lucy, I think." However, another of Helen's daughters told her that "Jack got her up at the park' or something." It appears, then, that the police spoke to Helen and that her daughters were offered counselling, but Helen never went through with it, and the case was dropped. Joan did not understand why the police spoke to Helen, but not to her. She did not know how Jack's offending against Lucy was reported to the police; she thought it may have been Crisis Care, but she was unsure. Joan found out that

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<sup>21</sup> Joan is the biological mother of both Jack and Lucy; however, the children have different fathers.

the case was going to conference when the YJC rang her to explain the process. She was unhappy with the length of time (about 8 months) between the disclosure of the offence and the conference.

### **Jack**

A year before the offence, Jack told Joan that he was “made to have sex” with a daughter of one of Joan’s friends, who was 3 years older than Jack. Joan spoke to the girl, who said she just wanted to kiss Jack because she had a crush on him. At the time, Joan believed her because she seemed “quite genuine,” but she later learned that it “wasn’t all that true. ... She was lying through her teeth, and Jack was really badly affected. That’s why I think Jack might have been sexually abused himself.”

Jack attends a special school for children with behavioural problems, and according to the YJC, he often “engineers blow ups” to get kicked out of the classroom. Jack smokes cannabis, which the YJC believed was supplied by a family contact. He has been abusive to his foster mother, encouraging the other foster children to do “some really bad stuff,” and staying out late, until the early hours of the morning. The file suggests no prior arrests; however, a few weeks before the conference, there was “a particularly bad incident at his school and the police had to be called ...” As a result, Jack was taken out of his foster home and placed in temporary care for a week.

Lucy’s counsellor told the YJC that there was more than one incident of sexual abuse, although this was not discussed at the conference. Joan was particularly concerned with Jack’s physical abuse of Lucy and her younger sister. According to the YJC, Jack “had been pretty extreme. He’d put a cigarette lighter near her. I don’t think he’d actually burnt her, but he’d frightened her [and her sister] with a cigarette lighter. There were worries that he would do it to other kids.” Jack’s counsellor revealed during the conference that he had been “knocked around pretty badly by [Joan’s] previous partners.” The YJC thinks that Joan “has got the understanding that his victimising behaviour is in part due to him being victimised.”

In the 4 to 6 weeks leading up to the conference, Jack was not attending his Mary Street sessions. During this time, he was hanging out at the transport exchange with other school friends and “a known paedophile.”<sup>22</sup> Joan believed that Jack had “been violated by this paedophile, [but] I don’t know much about it.” It is not clear from the file if Jack was sexually abused at the time or gave evidence to the police.

The YJC spoke by phone with Jack only the day before the conference. When he told Jack about the conference the next day, Jack said he had forgotten about it. Despite this, the YJC said that the conference was “obviously serious” to Jack and that he was taking responsibility for the offence to a “very high level ... He knows that the conflict is because of him, he realises that he’s got a legal problem, and he’s got to deal with it. I think he’s got some anxiety.” However, he warned Jack not to misbehave at school so that he could try to avoid attending the conference, and not to be “nasty with anyone” at the conference.

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<sup>22</sup> In the interviews of the YJC and Joan, reference is made to Jack’s “hanging around a ‘known paedophile.’” No further information is given in the file to verify more precisely what the circumstances were, or what took place.

**Joan**

Joan said that she had not “spoken to any police officer about this, nothing ...” However, she attended Jack’s interview with the police because:

I don’t want to put blame on Jack because I think [he’s] had enough blame put on him. I want him to know that his mum still loves him no matter what he does, and just as long as he keeps up his counselling and all that, I’ll always be there for him.

Jack’s offending has made Joan “a bit mental ... understandably ... I’ve got to go to the doctors and get tested for depression ...” She’s “always had distrust,” which she links to being “a victim of sexual abuse when I was younger, [which] was never ever seen to.” She recalled that it went on for 6 years, but “we got treated as liars, me and my sister.” In light of this history, she said:

I didn’t want it happening to my girls, or Jack for that matter. I warned them about dirty old men and taught them that people—strangers, anybody—aren’t allowed to touch you there. Even though I educated them and I thought they were protected, it was happening right under my nose. That’s what hurt the most.

Joan has been having problems with sleeping, and she “hates being alone.” She has “lots of headaches ... I put that down to stress,” and “forgetfulness, yeah, I forget a lot.” She has been attending counselling sessions with Jack and Lucy; ultimately, she would like to see Jack return home when it is safe.

**Lucy**

Joan reported that Jack’s bullying behaviour, which the YJC believed “was the precursor to the sexual abuse,” made Lucy fearful of him. After the offence, Lucy was fearful of being alone, had increasing distrust of others, and problems concentrating on her school work. Joan said Lucy is not worried about “the sex happening again. What ... she is worried about is [Jack] hitting her for no apparent reason and her sister as well.” The YJC believed that Jack “misses his little sister because he was looking forward to seeing her, but when he found out she was indifferent to him, ... that was upsetting to him.” According to Joan, on the day of a planned visit by Jack, Lucy was “apprehensive” and “fearful” of seeing him, even though she had agreed to it in her counselling session.

A piece of “new news” for the YJC, which came out in the conference, was that “Lucy blamed herself for Jack not being in the family. ... She thinks she’s the cause of him not being in the family.” Joan said that Lucy is “over that now,” but this is what she had believed when she started counselling. “I told her, ‘you did the right thing. Jack’s going to get help, and he’s going to go to counselling like you do. He knows that he did wrong.’” However, Joan continued, “it doesn’t matter how many times you say, ‘Lucy, it’s not your fault,’ it gets to her now and again.”

According to Joan, Lucy “sits back and listens and worries ... She’s very quiet. She doesn’t talk a lot about her worries.” Joan says that “all Lucy wants to do is please people, like her mum. She will do anything to please somebody and to be popular and to be liked. That really worries me.” Although Lucy is “distrustful at times,” Joan reported that:

There's this man, he's like a friend of the family's, who walks around the street. ... I don't like him. ... He looks like an abuser. I've spoken to Lucy so many times, like three times she's run up to this man and she's hugged him. "Lucy, will you not do that. I don't like that man. Stop it." And she does it. I worry that she's not going to protect herself if it does happen again.

Despite Joan's stated desire to protect her daughter, it is unclear why she has not spoken to this "friend of the family" to determine the nature of his affection for Lucy.

### *At the conference*

The conference participants included Jack, his Mary Street counsellor, his foster mother, a Family and Youth Services (FAYS) caseworker; and Joan, who balanced roles as Lucy's representative and Jack's supporter. Jack was "quite relieved that his dad wasn't going to be there," and his Mary Street counsellor also thought it was "better for him not to be there."

The YJC recalled that although Jack was "really quite good ... quite reasonable" the day before, on the conference day "we really had a rotten start." Jack said he "just didn't care" about this stuff and his head was down." His Mary Street counsellor said this often happened at the start of his sessions and to "persevere." Ultimately, Jack "did pull his head in and warm to the process." The conference lasted for 2 hours.

The story of what Jack did to Lucy "didn't come out much at all" at the conference. The police read the report, and Jack agreed with it; but "because of his difficult behaviour, we didn't talk a lot about the offence." Joan recalled that when the Police Youth Officer (PYO) read the report, "it made me sad." Jack "hung his head and the tears started. I think he's very ashamed about what he did." The YJC said that Joan said a "...little bit about the victim's point of view, but not a lot." It was not important for Joan to hear Jack's story of what happened. She "already knew, and it just hurts more when I hear it again." She had no questions to ask Jack about what had happened. This is understandable in that people do not want to rehash shameful ground. It also reveals that as a legal process, the conference is limited in what it can explore about the wider context of a young person's offending.<sup>23</sup> The conference focused mainly on Jack's current behavioural problems, with relatively less emphasis on his sexual offending against Lucy.

Joan said that an important goal for her during the conference was for Jack to understand the effects of the offence on Lucy. She became emotional during the interview when she discussed these effects. She also wanted to see Jack apologise and to reassure her it would not happen again. These desires were not achieved in the conference, although they were being addressed in Lucy and Jack's counselling sessions. Joan's main concern was that "Jack stays safe, and Lucy stays safe."

The YJC believed that Jack was taking responsibility for the offence, but qualified this by noting that Jack said several times, "I just want to get this over with." The Mary Street counsellor interpreted Jack's words as being "in the frame of shame" and that it could be a result "of his own abuse." Joan did not believe that Jack was taking responsibility. "He knows it was wrong, and he knows that he shouldn't have done it, but I don't think he knows

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<sup>23</sup> For that reason, the experiences of Ruth's daughters did not come out in the conference, and the multiple incidents of sexual assault toward Lucy were not discussed.

the impact he had on Lucy when he did do it.” At the same time, Joan thinks that Jack is “100 percent genuinely sorry” for what he did.

The YJC and Joan had different perceptions of Jack’s behaviour during the conference. The YJC thought that Jack was a bit defiant at the start of the conference, but Joan said he had “cocky” attitude throughout. The YJC said that Jack was actively involved and “stayed on task,” but Joan believed he was not paying attention. “About 50 percent, not the whole time ... He was off somewhere else. He didn’t want to be there.” Jack didn’t seem to be listening to what Joan and others were saying, which “really frustrated [Joan] because he just hung his head,” and when the tissues were given to him “because he had snot dripping out of his nose, he proceeded to rip the tissues up, so that made me angry.”

The YJC said that Jack did not trivialise or minimise the offence during the conference. Joan thought otherwise. “Yes, oh, he did [make the incident seem less harmful]. He was asked some questions, and ... with his head down, he was like ‘yeah, you know, I don’t give a shit,’ and ... [the PYO] saw red when he did that.” The YJC thought that Jack was “quite aware that this is a serious matter” and that this was reinforced by the PYO, but Joan did not believe “he knows how serious it is.” He was told by the PYO that if he did not comply with the agreement, he would go to court, and he would go to Magill [the youth detention centre]. “Jack said, ‘I’m not going to Magill because you get broken bottles shoved up your bum,’ so he doesn’t want to go to Magill.” But Joan continued, “I was worried it wasn’t sinking in to him.”

The YJC and Joan agreed that Jack was remorseful, but both were concerned that he would continue to “bully” Lucy and her younger sister. Joan said, “I think he is sorry for what he did, and I don’t think he will do it again, but it’s just the bullying is what I’m worried about.”

At no time during the conference did Joan feel that others were blaming her or Lucy for Jack’s behaviour. However, Joan recalled that Jack’s Mary Street counsellor seemed to jump to his defence during the conference. When Jack ripped up the tissues, Joan said something to him. His Mary Street counsellor replied in a way that made Joan feel that the counsellor felt she was “nagging him ... I just wanted him to sit up and listen and be respectful ...” She was upset with the way the counsellor was “sticking up for Jack when he was misbehaving ... making excuses for him.” She believed that this also “pissed off” a few other people in the room, especially the PYO.

### ***Conference agreement***

There were two elements in Jack’s agreement:

- continue Mary Street counselling for another 12 months
- comply with an evening curfew (to be home by 8 pm)

In addition, the conference “acknowledged” Jack’s commitment to not use or possess cannabis or other illegal drugs, although this was not a condition of his agreement. Other ideas were proposed such as attending school regularly and not deliberately trying to be kicked out of school, but the PYO did not want to include this element because he “‘wouldn’t breach him for that ... because it has nothing to do with sexual abuse’...” The YJC said this caused some conflict with Jack’s counsellor. There were no elements about contact with Jack’s sisters because the YJC said, it was “all really tightly under control anyway ... and he’s

done the right thing.” Although Jack had written a draft apology to Lucy, this was not brought up during the conference. Jack did not participate in the agreement discussion, saying “I don’t care” several times.

The participants discussed elements that were “above” and “below the line,” the latter being “stuff at the end of the page that acknowledges verbal commitments,” but that would not be subject to a breach, according to the YJC. This talk of above and below the line confused Joan, who did not understand why some things were “underlined.” Although Joan thought that the way the agreement was reached was fair and that most people were involved, she was confused about how it would work and was annoyed that Jack did not contribute. She would have wanted to see regular school attendance in the agreement, but understood that the PYO was looking out for Jack. The counselling and the curfew were the most important elements to her.

### ***Reflections on the conference***

The YJC thought it was an appropriate case to go to conference because until recently, Jack had been attending counselling. Further, he expected that Jack would “keep going” with counselling, and the conference made him aware that he must attend his sessions or face legal ramifications. The YJC saw Jack as “a victim himself of abuse,” thus, “to take him to court would be to victimise him.” On whether the victim was validated at the conference, the YJC said, “I think the conference was more about the bread and butter issues of Jack’s behaviour ... The conference was validating the seriousness of the offence and the seriousness of the counselling.” When asked about the presence of restorative movements during the conference, the YJC said, “we framed a lot of the conference around the things Jack needed to do with his behaviour and his temper. It was more about that than about restorative stuff in terms of the offence.”

Joan left the conference feeling “a bit worn out, but I’m better.” The conference had helped her because “we had resolved ... some of the issues that I was concerned about,” in particular Jack’s “being out on the streets at night” and missing so many counselling sessions. She worried that if Jack stopped counselling “the sex might happen again, not only to my kids but to others, other women. I think it’s important that he gets the counselling.” However, a few minutes later she said it’s likely that Jack will be involved in other offences, but “I don’t think it will be a sexual offence again.” Thus, Joan wavers between worry and hope.

Because Lucy was not aware of the conference taking place, Joan did not see benefits for her. Lucy is still frightened of Jack: “I don’t think that’s ever going to change.” Joan thought the conference showed there were people who cared for Jack, although she wondered if he saw it this way. When asked if there were any benefits to Jack of going to the conference, Joan said “none” because he “doesn’t look at keeping himself safe, and he looks at [the counselling sessions] as a pain in the arse that he has to do.” Although she was a bit angry toward Jack before the conference, she was not angry afterwards. Instead, she was “worried about him.” She felt negative toward him after the conference “because I can’t see the light at the end of the tunnel.”

Soon after the conference, Joan was “pretty satisfied ... they did such a good job.” She was glad the case went to a conference because the “court is formal” and “uncomfortable,” whereas at the conference “I knew everybody so it was just comfortable.” She was able to get

what she wanted from the conference, would recommend conferences to other people, and thinks the government should retain conferences “because it gives kids a second chance.”

### *Postscript*

Less than a week after the conference, Jack breached his agreement by staying out past curfew and running away from his foster home. FAYS would not tell Joan anything about his placement or location, except that they had found a new placement for him. All of this concerned her because she was afraid of Jack living on the street and the company he would keep.

Joan said she was “caught between a rock and a hard place.” Although she did not want Jack to get into trouble, she did not “want to see him get away with what he’s done.” She believed that the FAYS caseworker was “making another excuse for him” by reporting a “breakdown in placement” rather than a breach of his agreement. The FAYS worker said, “I don’t think the police want to take him to court.” Joan’s reaction was, “what a waste of bloody time! All these people, one whole afternoon, what a waste of time. We’ll just keep moving him from foster placement to foster placement.” Two weeks after the conference, when Joan was interviewed, she said “at this very moment I feel like [the conference] was a waste of time because of the way that FAYS acted when he abused his curfew.” She said, “I’m so pissed off at FAYS.” She recognised that “it was FAYS at fault; they’re making excuses for him.”

Jack was eventually breached for not following through with the conditions of the conference. The police records show that, except for the breach, he stayed out of trouble for about a year and half after the conference, but then things changed. In 2003, he had three separate court cases for incidents related to trespassing and theft, and he breached a good behaviour bond three times. In 2004, he had three separate pending court cases for serious criminal trespass, theft, and common assault; and he was subject to strict bail conditions. There were no sexual offences. Over 3 years, and up to the end date of the police record in 2004, there were 12 different home addresses listed for Jack. His mobility is particularly concerning, when we consider that he was just 15 years old in 2004.

*Case #3, John, Larry, and Rita: Present and forgotten victims*

**Key people in the case:**

**Offender: John, 13 yrs**

**Victim 1: Larry, 6 yrs**

**Victim 2: Rita, 5 yrs**

**Roger is the father (and supporter) of John.**

*The offences*

To understand this case, the familial context needs to be sketched. At the time of the offence John, aged 13, lived with his uncle Roger (his adopted father) and his then partner Liz, his twin brother, and Liz's two sons from a previous relationship, one of whom is Larry (6 years old, victim 1). When John offended against Rita (5 years old, victim 2), who is Roger's daughter from another relationship, she was visiting the household. According to the Youth Justice Coordinator (YJC), "there are about four or five women that Roger has had children with. So it's very complicated and very messy. ... There are children that come and go from his house all the time ..."

In October 2000, Roger found John and Larry (victim 1) with his pants down. It looked like John was about to touch or had touched Larry. Although Roger did not see anything in particular, he "thought there was something odd about it." He talked to both boys and then went to his doctor. Roger believed it was a single event, and the doctor told him "to talk to the boys and just let it go,' so nothing was done ... They just believed it was one of those things." Several months later, Roger and Liz discovered John simulating sex with Rita (victim 2) when she was visiting for the weekend. They decided that John's behaviour required a serious response and contacted Mary Street to start John in counselling. John began counselling about 5 months after the first incident with Larry was discovered by Roger. The YJC said that it took him a month or two to find Mary Street. "I guess [he could have] rung the police straight up, but he wasn't necessarily looking at it as a criminal act."

It was during his Mary Street counselling sessions that John made complete disclosures to his offending against Larry and Rita. At the suggestion of his Mary Street counsellor, John and his father went to the police station to report the offences. Roger and the counsellor requested a family conference "to formalise the police response" and to ensure that Liz could describe the effects of the offence on her son to John. A police report was written nearly a year after the first offence. It is short and skimpy, saying only that John fondled Larry's penis and buttocks on numerous occasions and that he fondled Rita's buttocks and had "simulated sex" with clothes on; in both situations, there did not appear to be penetration of any kind.

Roger also began to attend counselling because "he said that he just lost his temper all the time," although the YJC was unsure "what that means." The YJC noted that after the offence was disclosed, John went to live with his adopted mother (Roger's former wife) for several months because of "Roger's anger."

Some time after the offending against Rita was disclosed, Liz moved out of the house with her two sons and broke off the relationship with Roger. Liz relayed to the YJC that "it had a

huge impact, and it brought everything to the fore. She couldn't be around John anymore or let her kids be around him." She had been in the relationship with Roger for about a year, and "there were other things going on" that affected their break-up. Since the separation, Liz and Larry have had no contact with Roger and his family. John's adoptive mother is "very involved in their lives," but she did not "want to be involved" in the conference. Soon after the offence was disclosed, Roger stopped Rita's weekend visits, and she has since moved with her mother from South Australia to Queensland. The move appears unrelated to the offending, and Rita still occasionally visits Roger's home. However, the YJC had no information on how to contact Rita's mother in preparing for the conference.

A significant problem with this case is that there was no independent interview or investigation by child protection services or the police of what occurred. This has had negative consequences for Liz, who did not know the extent of the sexual abuse of her son, and for the YJC, who had to piece together the story by asking "intrusive questions ... that have probably already been asked, but someone didn't write down [the answers]." The YJC also gathered material to describe the impact of the offence on Liz and Larry, serving as a victim representative in the conference. This is most unusual for a YJC to do, but it was the only way to assure some kind of victim presence. John's Mary Street counsellor "felt it was very important" to bring this information forward in the conference, and Roger and John were aware that it would occur and "they were fine with that."

### ***Before the conference***

The YJC had a home visit with John and Roger. She thought that John was giving high priority to the case because when the date was set for the conference, he said, "okay, dad will pick me up from school." John was "mostly" taking responsibility for the offence because "he didn't say a lot ... he's a fairly quiet sort of kid." He was "mostly" remorseful because "he looked teary and his eyes were welling up with tears with a couple of things that were said." The YJC said that Roger gave high priority to the case, although his concern was mainly with John's offending against Larry, not against Rita.

The YJC did not know how to locate Rita in Queensland. When she asked Roger about contact information, he said, "oh, no, they won't want to be involved." Roger minimised the impact of John's offending on Rita, saying "there seemed to be no effect on Rita ... She's still really happy to see John, and they play together ... Look, she wasn't physically harmed either ..." The YJC attempted to counter his view, saying "I did a bit of talking with him about that stuff." Ultimately, however, Rita's story never came forward. It is surprising that Roger was so dismissive of his adopted son's (and nephew's) behaviour toward his biological daughter.

### ***Liz and Larry***

The YJC was concerned to "give Larry a voice in his conference." She tried on several occasions to contact Liz about a home visit, but she did not want to be involved. In part, this was because she did not want to see Roger, and in part, she was busy with travel and university commitments. During the phone calls that the YJC had with Liz, she learned that Liz wanted to "know in full, in some detail what actually did happen, how many times ... She was concerned that she didn't quite know about what had actually happened." Rather than attend the conference, Liz agreed to write down what she wanted to be expressed in the conference. However, when the YJC phoned her about this, she had not written down her

concerns. She then agreed to a home visit, just 2 days before the conference, when the YJC would speak with her and write down her concerns, which the YJC would then present at the conference. A good deal came out in the home visit.

The YJC learned that Liz was more concerned about Larry's welfare than she was angry toward John. "She didn't particularly like John. He was one of those kids that she never really got on that well with." She wasn't frightened of him, however, and she "never never said anything derogatory about him." Liz was "very nervous to be talking about it: she didn't know and still doesn't know the extent of what actually happened." In recent months, Larry's behaviour had changed, from a "very hyperactive sort of child" to being "quite withdrawn." Liz now saw this change as linked to Larry's sexual abuse and "she feels very guilty about that." Thus, from the YJC perspective, Liz cannot "not face it anymore. She has to face it."

Liz has taken Larry to see a doctor and has made an appointment for him to see a psychiatrist. She wanted to "know what had happened so she can get the appropriate help for Larry ... Without knowing the ins and outs of that, she was a bit stuck about where to go next." The YJC said that "we had a really good talk, and it was useful for her because she hadn't discussed it with anybody." Although Liz has been seeing a counsellor, the YJC did not think that she was receiving the kind of help she needed.

During the visit, Liz blamed herself for what had happened to her son, saying "I should have known." The YJC said to her, "well, once you did know, you took him away from that, and he will remember that." Liz then asked, "what if he looks back and thinks I didn't protect him?" and the YJC replied that "He will look back and know you took action, you did something about it." This caused Liz to cry and then to say "thank you for telling me that" and "I never thought of it that way." From the YJC's perspective, "that seemed to change something in her, that maybe she wasn't really fully to blame." This conversation strengthened Liz's resolve to tell Larry's father what had happened, which she did the next day. She had been fearful of telling him because he would say she was a failure as a mother. During that visit, the YJC recorded the information that she would present in the conference.

### *At the conference*

In addition to the YJC and the Police Youth Officer (PYO), the people attending the conference were John, his Mary Street counsellor, and Roger. Everyone arrived early, and the YJC reminded John and Roger that she would be presenting Liz and Larry's perspective. The conference lasted 90 minutes.

A short police report was read out, but because it was so brief, the YJC aimed to bring out "the story of the offence and the victimisation" by asking John "reflective" rather than "factual questions" such as "what have you learned at counselling [and] what do you think about it now?" John brought a statement that described "some of the links he was starting to make." The statement and the information that the YJC gathered from Liz were crucial in the dynamics that unfolded in the conference.

From the YJC's perspective, "the main and different dynamic" in the conference "was me reading out the victim's stuff." She had been concerned that it would not work successfully, but it did. One reason it worked, she believed, was that Roger "was so open ... so clear about what the purpose was ... But if I had a father who was defensive or angry, there was no way I

could have done it.” “It just changed everything” because “up to now, no one has spoken ... no one [knew] what was going on.”

When the YJC summarised the points that Liz asked her to make, the impact on Roger and John was highly effective: “John was crying, his dad was crying. They were both affected by what I had to say, particularly Roger, but that told me that the stuff that was being said was [true].” The main points of Liz’s statement, in the YJC’s words, were as follows:

- “She had so many questions on what happened. This influenced her getting help for Larry. Her lack of knowledge was her main thing. She wanted some questions answered, and she wanted some information.”
- “She blamed herself ... She should have been able to protect him. Why didn’t she know what was happening? She felt a sense of failure. That was big enough, but she also hadn’t told Larry’s dad yet.”
- “The depression, Larry’s depression ... The doctors diagnosed him with depression.”
- “Stuff around feeling distrustful and uncomfortable ... She kept having to watch her children every time she went there. ... After it happened, they continued to see each other for a while, but she was so uncomfortable ... ‘Once it happened, I just couldn’t be there anymore.’”

Items in John’s statement corroborated one of Liz’s points about Larry’s depression. “He read out, ‘I’m wondering if Larry has been affected. His behaviour changed. He’s a different kid than he used to be ...’” Thus, even “back then [more than a year ago], they were starting to see evidence” of the impact of the offending on Larry. “There was some talk” that it “had gone on over a longer period of time, it sounds like a year or so.”

John did not trivialise his offending: he was “mostly” taking responsibility and seemed “mostly” remorseful, according to the YJC. He said he “realised how wrong it was, and it was wrong for a long time before it had stopped.” He “started to get increasingly scared of being found out any second.” He also said, “I wish that this had never happened and I feel really bad, I feel really sorry that I hurt him.” He wanted to write an apology letter “because he felt really bad.” He was fully involved in the conference. Although he was quietly spoken, he was watching, listening, and nodding.

John’s statement “talked a lot about selfishness ... he realised he was quite selfish, ... and he put his needs above” those of others. These Mary Street “buzz words,” as the YJC called them, reflected his considerable time spent in counselling. “I don’t know how much he’s internalised [these ideas], ... but he’s doing the work.”

Roger took seriously John’s offending against Larry, saying “this was terrible, and we knew Larry was getting depressed. We were concerned about it, and was he all right.” The YJC said that Roger was “teary and was really sorry and felt really bad that this had happened.” He thanked the YJC for having a conference “and not sending it to court.”

As for Roger’s views of the impact on Rita, “it was very different ... He made sense of that by saying ‘that’s got to do with the way her mother handled it. ... Rita went to Queensland, and she was fine, and her mother was very angry, then she dealt with it very quickly.’” The YJC

was puzzled by Roger's thinking about Rita. "Somehow he perceives that the impact on Rita wasn't as bad, and I don't know why that is."

A significant restorative gesture occurred during the conference when John agreed to the lift confidentiality restrictions on his Mary Street counsellor to enable her to convey more information about John's offending to Liz. "That was a gift in a way ... That was probably the biggest thing that happened. And from [the Mary Street counsellor's] point of view, it makes her work with John so much more meaningful."

### ***Conference agreement***

John's agreement had two elements

- to continue counselling for another 8 months
- to prepare separate apology letters for Larry and Liz

He will work with his Mary Street counsellor in preparing the apology letters. The informal agreement—that John would waive privilege so that Liz could contact his counsellor—was not in the agreement. However, it was discussed at the conference, and there was a verbal agreement that it would occur. The YJC noted that John's counsellor was quite vocal and directive about the wording of the agreement, "but that was fine; she knows where she needs to go with John."

### ***Reflections on the conference***

Just after the conference, the PYO came up to the YJC and said, "You did a really good job bringing that stuff out. It was so clear. It was a great conference." The Mary Street counsellor rang the YJC the next day, saying "how effective that she thought it was, and it was really good to get that information. ... So everyone seemed to feel that it went really well."

Although Liz decided not to attend, "the victim had a voice in the conference, even though that came through me," the YJC said. The participants were able to work around Liz not being present, and there was a lot of good will, support, and insight, particularly from Roger. The YJC believed that John was benefitted by "sitting in the room with a police officer and knowing that not only were there moral and personal implications in terms of his relationships," but there was also "the bigger picture ... the full context" of the offending. "There wasn't any anger, ... any hysterics, [or] people yelling at other people" as can happen in conferences with family members in conflict over sexual offending.

In responding to whether Liz was validated by the conference—in not seeing the offending as her fault or Larry's and the community taking responsibility for it and acting on it—the YJC said "partly." Her reasoning was that "there wasn't this bit of a system that slung into place legally." The emphasis was on John stopping the behaviour and Larry getting help, but "this other external legal thing that has to happen is all a bit vague." The "legal thing ... didn't have the same meaning for Liz as other people ... That wasn't present for her at all."

Also not present was any discussion of the offence and its impact on Rita. Roger brushed this aside, and the YJC was not able to pursue it.

***Postscript***

John did not offend for over a year, but in January 2003, he committed an assault, which was finalised by a conference. He did not re-offend for another year, but in 2004, he began to amass a substantial criminal history. As of December 2004, when he was about to turn 17 years old, he had five cases pending in the Youth Court on charges of theft, assault, fighting, damaging property, and illegal use of a motor vehicle. He has violated his bail conditions several times. The file shows 19 different occasions of police contact, and over 12 residential addresses, including several entries for youth accommodation.

*Case #4, Nathan and Emma: Tip of the iceberg offending in a blended family*

**Key people in the case:**

**Offender: Nathan, 14 yrs (son of Kate and Phil, his first marriage)**

**Victim: Emma, 5 yrs (daughter of Louise and Phil, his second marriage)**

**Louise is the mother and supporter of Emma.**

**Kate is the mother and supporter of Nathan.**

**Phil, father of Emma and Nathan, is a supporter of Louise.**

*The offence*

Nathan was 14 and Emma, his half sister, was 5 at the time of the offence. Nathan lives with his mother, Kate, and his brother; but from time to time, he and his brother visit their father (Phil), stepmother (Louise), and their daughter, Emma. There is a history of conflict and difficulties between Louise and Kate.

In the police report, Nathan admitted to touching Emma on the genital area using his fingers, and he had his penis exposed when doing so. Louise said that she had seen Nathan kissing Emma in an “overly affectionate way” when they were watching a video. This was brought to her attention by a friend who was visiting. She also remembered that she had seen Nathan and Emma in the bedroom earlier, lying on the bed. They were fully clothed, and she thought nothing about it. Later, she asked Emma about Nathan, and Emma said that Nathan had kissed her on the lips and touched her on the genital area when she had no clothes on.

Emma made this disclosure to her mother late in January, and Nathan went to Mary Street. The offence was reported to the police several months later, and Nathan was not permitted to visit Phil and Louise’s home. There is more to the offending than Nathan has admitted to the police or that was discussed in the conference. After the conference, Louise revealed to the Youth Justice Coordinator (YJC) that Emma had a urinary tract infection, and she suspected there may have been sexual intercourse; but when Emma was interviewed by Child Protection Services, “she clammed up” and could not give a thorough interview.

*Before the conference*

The YJC had a home visit with Nathan and Kate. She believed that Nathan was “very good” in taking responsibility for the offence. He “did a lot of talking ... and shared with me the things he and [the Mary Street counsellor] were talking about.” He was “very sorry” and “remorseful” for what he did, and saw the conference in a positive light, as an opportunity to resolve conflict. One matter that concerned the YJC was that Kate’s friend was also planning to participate in the conference. She was an “unknown,” and because of a history of this friend and Louise not getting along, the YJC was concerned with the potentially negative dynamics that might arise.

The YJC met with Louise and Phil, but did not meet Emma. In a conversation with Louise, the YJC inferred that Emma no longer felt angry toward Nathan, but that she “missed him and couldn’t understand why she couldn’t see him.” Emma was not fearful of Nathan, and the YJC believed that Emma saw the conference as a way “to sort it out to see her brother again.” Louise had a good deal of anger toward Nathan, although she was not fearful of him.

However, she was concerned that he might do it again; thus, she held some fear for Emma. Louise has a “motherly relationship” with Nathan, and she “missed her (step) child.” Louise had concerns that at the conference she would not be able to “say all the things that she wanted ... that her emotions would prevent her from representing Emma well.” Louise’s interests to attend the conference were focused entirely on Emma. “She didn’t come for herself. ... She wanted Emma to get help ... She wanted both [children] to be in counselling. She wanted it to not happen again.”

Louise and Phil wanted to know how the process would work. “With emotions running high,” they wanted to be sure that “some control was taken, that it wasn’t out of control ... [and] that the conference is legal ... They wanted to be fully informed of the structure.”

### *At the conference*

In addition to the YJC and the Police Youth Officer (PYO), the conference participants were Nathan, his Mary Street Counsellor, his mother Kate, Kate’s friend, Louise, and Phil. The police officer read out a brief report, which was followed by clarification from Nathan with the YJC’s prompting, and by Louise who “filled in some gaps.” Nathan had come prepared to say sorry at the conference. At the start of the conference, he brought out “things he had written up,” asking if he “could read this out now ... He was desperate to get it out ... as soon as he possibly could.”

Louise “brought along two lists,” one for how the offence affected Emma and one, for how it affected her. The YJC believed that Louise was highly effective in describing the offence and its effects. She was able to “draw together a 5-year old’s thoughts and put them forward ... and to interpret some of the things that were happening that a 5-year old couldn’t do ... She was able to give examples ...” There was a strong impact on Nathan, who began to cry, with his “head in his hands ... really physical obvious things ... He was crying a lot at that stage, and we had a break ... We stopped momentarily because he was so distressed.” The YJC noted, however, that “there was more to the story than he [Nathan] had pieced together.”

Louise also explained how the offence affected her: it was a “betrayal of trust ... heightened by the fact that she was his stepmother ... A real sense of family was lost. There was loss, and grief and some anger,” although the anger had subsided with time. Louise cried when telling her story to Nathan: “her main distress was around her daughter.”

Phil also brought along some thoughts he had written out, “and that had a huge impact on Nathan ... because he talked about the fact that Nathan had put their relationship at risk by choosing to do this. Phil also saw it as a real betrayal of their relationship.” Nathan’s response was “something along the lines that he was aware that he damaged [the relationship] and didn’t know how he could fix it.” The YJC noted that the conference had a benefit “above and beyond Emma” because it was the first time in 6 months that Nathan had seen his dad, and “his dad had been really important to him in his life.”

The full nature of the offending did not come out during the conference. However, Nathan did not minimise the offence, although the YJC was unsure if he “fully understood everything.” He accepted responsibility for it, “was really sorry,” was actively involved, and not defiant.

Nathan's mother Kate "said she was sorry ... She said all the right things," but the YJC had a concern in the back of her mind that there was "this sideline going on with Kate's girlfriend ... They weren't whispering ... but there were just some looks, and raised eyebrows and stuff ..." Although Kate was "pretty clear about what Nathan had done was wrong ... She was sorry, and she felt bad, and she also talked about feeling responsible [because] he was her child and in her care." So although there was "no trivialisation by [Kate and her friend], there was something else ... [which was] using this opportunity to get back at Louise." Ultimately, the YJC believed that Kate was "distracted by her friend, Louise, the past, and the marriage ..."

The YJC said there was definite "general validation" of the offending that was dealt with at the conference. For example, Nathan acknowledged that Emma "was a little girl and he was her older brother," and he understood the difference in age, "which was quite significant." However, there was "only partly validation" in that the full story of the offending was not reported to the police and thus did not come out in the conference, although additional information was going to be discussed some time after the conference with Nathan, his Mary Street counsellor, Louise, and Phil.

Louise felt a sense of responsibility for the offence. The YJC recalled that she said something along these lines:

You know what it feels like to be the mother. ... You want to be responsible, you want to look after your children, you can't be there 24 hours a day, but I should have been able to protect her ... I know that I can't, and I know it wasn't my fault, but I wish I'd been able [to].

Louise, Phil, and Kate were "quite, surprisingly, reasonable to one another in putting the responsibility where it lay ... and being supportive." They all said, "it's something he's done." For example:

Louise and Kate each said, "I'm to blame," and each one [of them said to the other], "no, you're not." ... Kate said, "he's my child, I should have known [what he was doing]." ... Phil said "don't blame yourself, Kate, you know this isn't something you've done." ... There was quite a bit of exchange of that back and forth ...

The conference generated several instances of restorativeness<sup>24</sup> among those in the room. "There were lots of apologies flying around in the meeting." Nathan was working on an apology, which he would give to Louise, who would decide whether or not to give it to Emma. Nathan said sorry to Louise, Phil, and Kate. Kate said sorry for what Nathan had done, Louise said sorry that she did not notice it, and Phil said sorry that Nathan did not have his dad around. The conference was more emotional with "everyone crying at some point."

Nathan's Mary Street counsellor played an important role in developing restorativeness. Louise and Phil had met him when Nathan first started counselling and "there was a sense of trust with him." During the conference, the counsellor was able to "explain where things

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<sup>24</sup> "Restorativeness," a term developed by the senior author (Daly 2002a: 70; Daly 2003: 224), refers to the degree to which offenders and victims recognise the other and are affected by the other; among the observational measures tapping "restorativeness" in the SAJJ study are the degree to which there is positive movement between offenders, victims, and their supporters during a conference. In the sibling cases, it refers more specifically to moments when participants' desires for trust and relationship building occur.

were up to with Nathan, which was important for Louise and Phil to hear ... It was part of the external validation [because] it bore witness to the fact that Nathan was doing this work.” Further, it was decided that the four would meet in the future “to discuss the things that weren’t discussed” in the conference. There was also a discussion of Nathan’s staying at his father’s house; he had not seen his father in 6 months, and before the offence they had been close. Louise said she was not ready for him to come back, and it was decided that Phil would see him outside of the house for an afternoon.

A significant moment of restorativeness occurred after the conference formally concluded and the participants were leaving. Louise and Phil were at the doorway, and Nathan came to say goodbye. “Nathan sort of looked up ... he was very teary and very upset, and said, ‘well, goodbye dad. When am I ever going to see you again?’ and Phil got all sort of teary as well. ... and he went over and hugged him ... They hugged for quite a while.” Nathan said goodbye to Louise, and she said goodbye to him in a kind way. The YJC reported that Nathan “talked about that for ages after they had gone” because the exchange gave him “some hope” for his relationship with his father and with Louise. The YJC said that if “they go home feeling differently, then maybe that does restore something to Emma too.”

### ***Conference agreement***

Nathan was to continue counselling at Mary Street for 12 months. Informally, it was decided that he would have no contact with Emma but would write a letter of apology to her. There was discussion of the need to ensure that teachers in Emma’s school provided her with extra support, and the YJC offered to recommend another counselling service for Emma.

### ***Reflections on the conference***

The YJC believed that the benefits of the conference (over court) were that family relationships were addressed. “There started to be some movement ... of the two families,” and this would not have happened had the case gone to court. “The family had been left to their own devices for 6 months, and nothing had happened.” Phil had decided not to see or speak to Nathan to show his loyalty to Louise. Or, as the YJC put it, “he had to make a choice” between Louise and Kate. In addition, Phil “was devastated that Nathan had done this,” and he “felt that Nathan had chosen to behave in this way over their relationship.” The hug at the end of the conference reflected movement toward change. Another benefit was that Nathan’s offending was addressed. This would not have occurred had he denied the offending because, if the case had gone to court, Emma “would have been unable to give information” that would have led to a conviction.

In a phone call after the conference, Louise praised the YJC for how she ran the conference. “She thought I’d done a really good job, ... which was really nice to hear.” Louise also expressed concerns about Nathan’s words when apologising at the conference. “She believed [the apology] came from a good place, but she just wasn’t sure about it, about the wording ...” She wanted to know who decided “how often he was going to counselling, so there was still some concern and ... still some anxiety for her” that he would offend again. Despite this, the YJC said that Louise was “very satisfied” with the conference.

### ***Postscript***

The police record shows that Nathan had no further offending over the next 3 years.

## **Part III Other Sexual Assault**

### **A. Introduction**

These cases of sexual assault do not conform to the patterns we have seen in the sibling or peer assaults in the other cases. Case 5 is of a single incident sexual assault of a young girl (3 years) by a youth (14 years), who was known via friendships between family members. There were strong ripple effects of the assault on family and friendship relations, and the person representing the victim was particularly angry. The case shows sharply different views of the youthful offender's behaviour during the conference, from perspective of the Youth Justice Coordinator, the victim representative, and a victim supporter. Case 6 is of two boys (one considerably older) forcing a puppy's penis into the mouth of the victim. The older boy had a history of on-going violence and bullying of the victim, whereas the younger boy was a friend.

### **B. The cases**

#### **Case #5, Tim and Crystal: Offending with ripple effects for family and friends**

##### **Key people in the case:**

**Offender: Tim, 14 yrs**

**Victim: Crystal, 3 yrs**

**Bill is Crystal's grandfather and is the person representing her at the conference. Crystal's other conference supporters are her parents and Barb (her grandmother, who is married to Bill).**

**Tim's conference supporters are his foster mother, his Mary Street counsellor, and his Family and Youth Services (FAYS) support person.**

##### ***The offence***

The offence occurred during a barbeque at Tim's house, to which Crystal and her grandparents, Bill and Barb, were invited. Tim, 14 years, and Crystal, 3 years, were in the bedroom, and while they were playing, Tim later admitted that he touched Crystal on her vagina outside her clothing. However, in the police report, Barb said that Crystal asked her, "why did Tim take my pants off and touch my private parts?" while they were driving home from the barbeque. When they arrived home, Bill rang Tim's foster father and asked him about the offence. The foster father confronted Tim, and Tim said he had done what Crystal said. The foster father reported the offence to the police, Tim made full admissions, and subsequently began counselling at Mary Street.<sup>25</sup> Soon after her disclosure, Crystal was interviewed by staff at Child Protective Services, but she would not talk about what had happened. Thus, the police filed the report because despite an admission by Tim, there was not sufficient evidence of an assault. Bill was incensed that this occurred, and he was angry with how the police handled the case.

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<sup>25</sup> Barb's account of what Crystal said and what Tim made "full admissions" to are quite different. Barb's statement was likely not pursued by the police because Child Protective Services was unable to elicit information from Crystal about what happened.

Barb reported in her interview that after the offence, Crystal was fearful of being alone and did not want to sleep alone; she was “clingy” and wet her bed. She had “little panic attacks, feeling sick and not wanting to go anywhere ... She hated her kindly. We had to pull her out of kindly, oh it was terrible ...”

About 5 months later, the police referred the case to a family conference, on the suggestion by Tim’s Mary Street counsellor that he was ready to participate in a conference. The conference was held nearly a year after the offence was disclosed and reported to the police.

### *Complex family and friendship dynamics*

The Youth Justice Coordinator (YJC) spent a lot of time on this case. There were complex family and friendship dynamics to contend with. He characterised Tim as “a very insecure young man ... [having] low self-esteem, no confidence, low self-worth,” who was now being treated as somewhat of an outcast within his foster family. Tim had been in foster care since he was 5 or 6. He and three of his siblings have lived in the same foster care household for some time (details are not clear, but all the children were removed from their biological parents at a young age).

Bill was not only angry at Tim’s foster father, he also disliked Tim’s foster mother, who he described as “crude.” It was Barb’s friendship with Tim’s foster mother, when they used to be neighbours, which was the reason they spent time together in the past. The barbeque was the first time they had gotten together in many years.

After the incident, the friendship between Barb and Tim’s foster mother ended, although Barb’s said she “loved her.” Adding another layer of complexity, Crystal’s mother had been sexually abused as a child, although the circumstances are not clear in the file (Bill says the perpetrator was her father, and the YJC does not know). Barb’s son from a previous marriage (and Bill’s stepson) is married to Crystal’s mother. Bill and Barb are particularly fond of their daughter-in-law and grandchild, and they are concerned that Crystal’s father should be a better family man.

We interviewed Bill and Barb. Although interviewed separately, each often reported the same concerns and judgments about the offence and conference. Both had strong feelings of guilt that the offence had occurred; and both were angry with Tim’s foster father because he had not told them of his suspicions that Tim had previously abused a sibling. Had he done so, they said they would have never permitted Crystal to play with Tim. Barb said that “that eats away at me even now.” The foster father had also prevented Bill from checking the bedroom several times, saying he should just relax, which compounded Bill’s anger. There were some differences, however: Bill was even more emotive and openly punitive toward Tim than Barb.

Bill felt he had failed to protect his granddaughter and to be sufficiently vigilant in looking out for her welfare. Throughout the interview he ruminated on why they went to the BBQ, why they re-kindled an old friendship with Tim’s foster parents, and how things might have turned out differently if they hadn’t gone to Tim’s house. Ultimately, Bill was angry not only at other people, but also “the system” for not being tough enough on offenders.

We also sought to interview Crystal's parents; they initially agreed to be interviewed, but when we rang on several occasions, they said they were too busy and to call later. We inferred that they were politely declining an interview, and thus we decided not to pursue the matter further.

The YJC believed that "if you took the adults out of it, this could have been dealt with and resolved much easier, but it's the anger and angst that the adults have, that's causing the dilemmas for them." He had floated the idea of having two conferences: at the first one, to have only "the adults" (family members and friends) present to address all their points of anger and emotion; and the second, with Tim and the adults. He was concerned that the adults not "beat up Tim" with "their own stuff." This plan did not eventuate because the adults said that they would "be fine" and could "deal with it."

### ***Before the conference***

The YJC was concerned with how the conference would unfold because of Bill's anger toward Tim and his strongly negative views on the police handling of the case.

Bill's motives to attend the conference were not what some restorative justice advocates expect of "good" (or compassionate) victims. He wanted to let Tim know that he was a "mongrel," and he wanted to instil fear in him: "I wanted to see the kid beaten up, big time, I wanted to see that he was going to be punished somewhere." What Bill hoped to achieve from the conference was

to make [Tim] afraid ... I felt that this guy is never going to learn anything if everybody pussy foots around ... If he believed that I was on the verge of beating him up, maybe he would be afraid enough to think I better never do this again because somebody might do this.

His motives to instil fear in Tim stemmed from a strong belief that "the system is not harsh enough on offenders."

### ***At the conference***

In addition to the YJC and the Police Youth Officer (PYO), the others attending the conference were Bill (representing Crystal), Barb, Crystal's parents, Tim, his foster mother, a Family and Youth Services (FAYS) worker who supported him, and his Mary Street Counsellor. The conference was long, going for about 3 hours, although there were two breaks.

The YJC said that Bill "performed worse than I had expected" at the conference. He thought he had "worked through a lot of the stuff" with Bill during their pre-conference meetings, but Bill's anger and emotions remained. Early on in the conference, the YJC said that Bill "was already looking like fury. He was already looking like ... he had the rope, had the tree, just needed somewhere to tie him up."

There were other problematic dynamics. The Mary Street counsellor advocated too strongly for Tim, a point made by the YJC, Bill, and Barb. According to the YJC, the counsellor's behaviour was "detrimental for the rest of the group." She intervened when questions were raised about Tim's behaviour, saying that the conference was not about analysing Tim. This

“took the heat off [Tim].” It also appears that the counsellor acted unprofessionally at times by attempting to undercut the YJC’s authority. Disrespect was also evident, according to the YJC, in how Bill spoke to the police officer, speaking over her and not listening to what she was saying.

Bill got into an argument with the police officer about whether the conference was harder for young people than going to court. Bill recalled it this way:

“So if you can tell me that that kid is worse off coming here,” I said, “I’ve got to disagree entirely,” but she [the police officer] did say, “it’s far, far harder for him.” Yeah, what a load of rubbish.

The YJC believed that Bill had little respect for the PYO because “she was a woman.”

Bill asked the Mary Street counsellor what she was hoping to achieve, but he was not convinced that Tim could be set on the “right path.” Rather, he learned that thousands of dollars were being paid for Tim’s counselling, but there was nothing of significance for Crystal and her family who were adversely affected by the offence.

During the discussion of the conference agreement, Bill asked the YJC if he could “get [Tim] to look in my eyes, while I tell him [what I think of him] because I felt we were going nowhere ... and this was bullshit.” The YJC and FAYS worker sought to prevent Bill from speaking to Tim in a threatening or demeaning way. A conference break was taken to defuse the situation, and when the YJC and FAYS worker asked Bill what he wanted to say to Tim, he said, “nothing .. I want to say, ‘look into my eyes and I’m going to tell you what I think of you,’ and then I was going to say, ‘that’s it.’”

Bill’s repeatedly said that those at the conference were “here to protect Tim, and there’s nothing for Crystal ... they weren’t there for us ... there was nobody really taking Crystal’s side.” The interviewer asked Bill, “what could have been done to bring more of her side out, do you think?”

His answer is revealing:

Oh the problem is, ah ... I wish I knew the answer to that ... It’s not just me personally, and it’s not just Crystal. It’s a system that we’re going through in this country, where more is spent financially on offenders, and there was more time taken with them. ... They never showed ... an interest in Crystal. ... *It happened to Crystal, but we were the ones that suffered more than [her] because [she] didn’t understand it* (emphasis added).

He is making several points. First, the assault was not taken seriously by “the system,” and in his experience with the police officer and Mary Street counsellor was that they were more concerned with offenders than with victims. Second, although Crystal was “the victim,” Bill believed it was he and other family members that had “suffered more ... We were all rattled.” Thus, the secondary victims are thought to have “suffered more” than the primary victim, who, it is claimed was too young to know what happened.

The YJC believed that whereas Bill was quite negative, Barb and Crystal’s parents “took a much more moderated version of events;” during the conference they told Bill “he was a little

bit out of line.” From the YJC’s perspective, “everyone seemed to have a little bit of sympathy for Tim except Bill.”

Bill was “very demanding and intimidating” toward Tim, according to the YJC. When he described the impact of the offence, “he relived it ... It was therapy for him. He relived the whole part right through to the child protection investigation.” The YJC believed that this had a “high impact” on Tim, “it shook him up.” However, he also believed that the other family members “were more effective because they weren’t as emotionally charged and they were relating it back to what Tim could understand.” Tim’s foster mother was also somewhat harsh toward Tim during the conference, saying that if he got into any more trouble, even for the smallest offence, he would have to find another place to live.<sup>26</sup>

### *Views of Tim*

The YJC had a far more favourable impression of Tim than did Bill or Barb. He described Tim as “very insecure, low self-esteem, your typical high-risk adolescent ... who is at risk of ending up in hospital or topping himself.” Before the conference, he said that Tim came “across as genuine” and “fully remorseful.” He felt sorry for him and his having been in foster care for so long. “This kid doesn’t know what family is.” At the conference, he observed that Tim was remorseful, taking full responsibility, actively involved, listening to others, and not trivialising what he had done. On all these questions, the YJC viewed Tim’s behaviour in strongly positive terms. “It was stated a number of times that if he could chop off his right arm, to make this right, he would have.” He interpreted Tim’s behaviour at the conference as “stoic”:

Much to the horror of Bill he showed very little emotion during the conference. He couldn’t maintain eye contact. Physically, you could see him trying, but it was in short spurts. Bill thought that was just a sign of not being engaged.

The YJC recalled that Tim “didn’t say much, but there were a lot of non-verbals ... he would squirm or he would actually prick up his ears or drop his head, very respectful ... When people were ... wanting an answer, he would look up for as long as the question took ... He was actively involved.”

Bill and Barb viewed Tim in more forbidding, dangerous, and negative terms. Bill said, “they [say] he’s only a kid, but to Crystal, he would look like an adult.” Both gave similar responses to questions concerning Tim’s behaviour during the conference: that he did not take any responsibility for what he did, was not at all remorseful or actively involved, and was merely reading a statement that someone else had prepared for him. On all these measures of Tim’s orientation to the conference, Bill and Barb only had negative things to say about Tim.

Bill said:

I wanted to hear what he said, and I thought, what a lot of crap ... He was obviously reading from a letter that somebody else had prepared for him. I didn’t believe a word that was said. ... I had an argument with the police officer. ... I said, “How can

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<sup>26</sup> It is not clear from the file if Tim was removed from his foster household for a period of time. There is some suggestion that this occurred, but if so, it is unclear for how long.

anybody sit there and tell me this guy is genuinely sorry, when he's only reading from a letter?" It was obvious it wasn't coming from him.

[Interviewer: Why was it obvious?] He was reading it with embarrassment, I suppose, but nothing else. There was no show of any emotion in the sense of a guilt look or anything like that.

Bill observed further:

I don't think [Tim] was interested in what anybody was saying. ... He sat in his chair like this [lowered his head]. Most of the time, he sat like that, and when they asked him to say anything, he was saying it with the head down.

During the conference, Tim attempted to explain why he assaulted Crystal. Bill said that Tim said "he'd done it because he thought she wouldn't understand." When Barb heard this, she said she "felt like little warning signals were going off inside me ... It's quite dangerous if you say things like that, at his age." To Bill, the Tim's comment meant he "is a very dangerous person and will be later on ... he's capable of doing anything because it shows you he wasn't afraid."

At one point in the conference, Crystal's mother started to cry when recalling her experience of being sexually abused as a child, and Bill said, "When she was crying, ... I looked at Tim to see his reaction because I nearly started crying ... I looked across at him to see his reaction and there was no reaction."

Barb hoped that Tim would "go to jail and throw the key away for the rest of his life," but she knew this was not realistic because of his age. "Rotten little shit, he deserves this, he deserves [jail] you know." Compared to Bill, she was less sure of what she hoped would happen from the conference.

Bill was still very angry toward Tim and still negative "because I can't forgive him, I just can't forgive him." Barb said that before the conference, she was willing to forgive Tim, she felt somewhat sorry for him because of his experiences growing up, and she was ready to move on. However, at the conference, she thought that because he was not paying attention, not taking responsibility, and not remorseful, this made her feel more negative and angry toward him. Like Bill, she believed that Tim was reading from a statement that someone else had prepared for him. She wanted to say many things to Tim, but she didn't think it was worth her time because he didn't appear to be listening or was not affected by what anyone at the conference was saying. Further, she believed that Tim "never once worried about Crystal, how she would have felt really, it was more [about] him."

It is not surprising then, that an apology from Tim was not important to Bill. "Nah, I don't think it would have meant much." For Barb, it was "very important that you hear an apology, but I don't think it was very good."

***Bill, from the YJC's perspective***

The YJC described Bill as "highly emotional" several times during the conference. "Sometimes that emotion was grief and at other points, it was pure anger, white anger." On

the conference day, Bill “looked like he hadn’t slept for a few nights ... [He had] sunken eyes, the dark eye bands ... You’d only go ‘boo’, and he would have blown up.”

He thought that Bill was re-victimised in recounting what occurred on the day in that he “did have to relive the offence, and everything [Bill described] was as if it happened yesterday.” But in the same breath, the YJC said, “He was just, he was hard work.” The YJC challenged Bill’s behaviour three times; and on two occasions, he called for a break for Bill to go outside to discuss the matter privately. In the first, it was to address Bill’s disrespectful behaviour with the PYO; and in the second, it was to address his desire to say something directly to Tim “for 30 seconds.” The YJC and the FAYS worker were concerned that Bill would say something to Tim that was demeaning and disrespectful.

The YJC said that after he had confronted Bill on “the respect issues, ... I became invisible.” Ultimately, the only person that Bill would speak to was Tim’s FAYS worker. Bill “didn’t want anything to do with [the Mary Street Counsellor], he didn’t want to speak to [Tim’s foster mother],” and he had a low regard for the PYO. The YJC “couldn’t manage him.”

By the end of the conference, I was at a point with Bill where I thought the next thing you say, I’ll just take you outside and talk to you again ‘cause I was frustrated with him. He’d got to a point where you couldn’t manage him. The only way to control him was to sit outside with him.

### ***Conference agreement***

The number of hours for community service was discussed, and although the YJC said the upper limit could be 300 hours, it may not be appropriate in this case because Tim was in school full time. The number of 60 hours seemed better, although not to Bill, who according to the YJC, “was horrified that we’d gone from 300 to 60 hours.” The rest of the group was “quite happy” with it, but “they couldn’t talk down Bill.”

During the discussion of the conference agreement, Bill was frustrated with how it was developing. The YJC recalled that “the main discussion was turning it from a punishment or a punitive activity to ... assisting Tim not to re-offend.” However, this was not the conversation Bill wanted. In the YJC’s words, Bill wanted “death ... Tim could have been left out in the desert, and then Bill would have wanted Tim fined for littering because his bones were there ... Never enough will be enough.”

Crystal’s father suggested that Tim could assist him in doing letter box drops advertising his cleaning service. Bill and Barb opposed this idea, saying “what do you mean? You don’t want to be anywhere near him. The next thing you’ll be doing is inviting him around for dinner.”

Tim’s agreement had many elements. He was to

- complete 8 more months of Mary Street counselling
- carry out 60 hours of community service
- write a “letter of remorse” to Crystal’s mother and grandmother
- attend a Just Consequences session
- make an appointment to see an employment counsellor
- visit the local youth detention centre (with his FAYS worker)

Bill and Barb believed that the agreement was unfair because the hours of community service were too low.

### ***People with folders***

Although Bill's conference behaviour seemed inappropriate at times, he had keen insights about the professionals, whom he referred to as the people "with folders." He believed that they participated in the conference "with folders," but he and others, who were close to Crystal, participated from their hearts:

I said to her, "you've got to understand that it's OK for you, and anybody else to sit there, ... *just sitting with folders.*" I said, "look at us, look at [names himself, his wife, and Crystal's parents], we have to do this from here" [points to his heart] (emphasis added).

A second example of this idea came up when the interview focused on who was involved in deciding the agreement. Bill said "The *people with the folders*, they had a good idea of what was happening. ... They knew exactly what they were doing. *Not only did they know how to handle Tim, but they knew how to handle us*" (emphasis added).

This is an important point, and it shows how the notion of "achieving consensus in the conference outcome" can be a romanticisation. From Bill's perspective, the people with folders were the ones who decided the agreement, and they brought others into line with their point of view. For that reason, Bill reported, "I'd given up during the discussion of the conference agreement. "I said, 'this is crap,' right? ... I wasn't involved because I didn't believe it ... Because I thought this is just a set up ... to appease us ..."

### ***Reflections on the conference***

Although Bill was generally negative about the conference process and outcome, saying "the whole thing was too easy," and the case should have gone to court because the conference was "molly-coddling [Tim]," he did identify two positives. One was the YJC, who "had done everything ... he tried to be fair and that's really all we're asking for, for somebody to be fair." When the YJC first contacted Bill, he "was the first person that really let me believe that somebody was at least trying to help, by the way he listened. ... He helped me to calm down a bit too." The second was validation he received from Tim's FAYS worker, who spoke with him during the second break in the conference. Bill recalled:

He said to me, and I suppose it helped, he said, "Bill, I know where you're coming from ... If it would have been me, I would have battered the shit out of him, ... but we can't do these things." He said, "I know what you're feeling, but it's not going to do any good." So that, in a way, convinced me ... He diffused the situation.

The FAYS worker validated Bill's strong desire to hurt Tim, but at the same time convinced him that the desire was "not going to do any good." The men also connected because both had the same ancestry, were grandfathers, and had friends in common from playing sport.

Although Barb was critical of what occurred at the conference, she left feeling better. She said it was good to get it all out in the open and to hear Tim's side of what happened. She was glad to see that things were going to be done to ensure that Tim would "better himself,"

and was pleased to be able to “face him and have my say and to walk away without any guilt.” (By guilt she meant that she had blamed herself for what happened to Crystal). The conference provided “a closure on everything and I never ever thought you needed that type of thing, but you do.” She believed that if the conference had not happened, she would have had doubts about the incident and what had really happened.

The YJC noted several restorative moments at the conclusion of the conference. Tim’s foster mother and Barb hugged each other; and Crystal’s father “bee-lined to Tim and shook his hand.” At the suggestion of the YJC, Crystal’s family members left, and Tim and his supporters remained as the YJC was writing out the conference agreement. He recalled:

I knelt on the floor next to Tim and read through the agreement with him, and he said “yep” and I said, “yep, that’s OK,” and he gave it back to me. He looked at me, and then went whoosh ... and it was just tissue city.

Although Tim had held in his emotions for many hours, he began to cry. So too did his foster mother, who was “relieved it was final.”

The YJC talked with Tim afterwards, and he learned he “was very happy with the outcome ... [Although] he didn’t know what to expect, he expected to be verbally bashed, and unfortunately that’s what he’d been told would happen.”

The YJC had a good, if unusual way of interpreting the court-conference comparison, when recalling Bill’s insistence that the case should have gone to court. “We had a huge discussion about how coming to a conference would have been more difficult for Tim than going to court, ... and Bill was saying, ‘but Tim wouldn’t know that because he’s never been to a court.’” The YJC replied, “*but Bill, this is court*” (emphasis added).

The YJC believed that there’s now “a bigger plan and more commitment to dealing with Tim and Tim’s issues, a commitment to making sure things happen.” His FAYS worker played an important role in the conference by supporting Tim’s foster parents, saying they were “good foster parents, and if we can support a placement in your house, we’ll do everything we can.” In addition, the youth worker was “talking about Tim as a young person who deserves to have every opportunity to meet his potential.” The YJC thought that the youth worker was investing considerable interest and time in Tim, more than is typical, and he saw this as a plus for Tim’s future.

This was a physically and emotionally draining conference. The YJC learned from another coordinator that when the police officer attended a second conference that day, later in the afternoon, she “walked into the room, and she looked glazed as if she’d been put through a wringer.” The YJC said it “was a heavy goer. I came out and I needed a glass of water. I think, I’ve sweated all my life away.”

The YJC was sure that the case was appropriate for a conference. It gave the opportunity “for the victim representatives and the young person to meet and to put their stories forward, and for the impact to truly be felt by the young person ...” He had also noted many positive outcomes from the conference, despite the difficulties of managing Bill and the confrontations that arose between him and the PYO and Mary Street counsellor.

***Postscript***

The file shows that 2.5 years after the conference, about 4 months short of his 18<sup>th</sup> birthday, Tim was arrested for offences related to theft of a motor vehicle. His case was referred to a conference. In the agreement, he was to write a letter to and pay a small amount of compensation to the car's owner, and not associate with three named males. At the time, he was still living with his foster parents. The file shows no further offending for the next 8 months to the cut-off date of the criminal history record.

## **Case #6, Vince and Jesse: Assault with a puppy**

### **Key people in the case:**

**Offender: Vince, 10 yrs**

**Victim: Jesse, 10 yrs**

**Carla: Vince's mother and his supporter at the conference**

**Co-offender: Mike, 16 yrs, did not admit to the offence initially, but pleaded guilty when the case was finalised in court.**

### *The offence*

The police report of the offence does not give the whole story of what happened on the day that Jesse was indecently assaulted. The Youth Justice Coordinator (YJC) recalled that Jesse's mother said, "the police came to the door, and they couldn't tell me what had happened. They wouldn't get the words out, and I had no idea what had gone on.' So it was a theme in the whole thing." In the YJC's words, "the theme" was "men unable to talk about dogs' penises in people's mouths."

Jesse and Vince have been friends for 3 years, attend the same school, live on the same street, and are of similar age (10, almost 11, years old). Mike, the co-offender, is among a group of older boys (16+ years) who bully the younger kids on the bike track.

In the late afternoon, Jesse met with Vince and Mike at a bike track. He stayed with them until Mike play wrestled him and hurt him. He then walked away to another playground nearby, and Vince and Mike followed him. Mike picked up Jesse in a wrestling fashion and threw him on the ground. According to the YJC, "Mike's a big bruiser compared to Jesse." Mike held Jesse's body down by putting his knees over his legs. He put one hand on the Jesse's chin and one about the mouth, and held the boy's mouth wide. Vince, who was playing with a puppy (it belonged to another person, a girl, who was standing by the track with a friend), put it over Jesse's face for what is variously reported to be "a couple of minutes" or "20 to 30 seconds." The YJC recalled that Vince said that "even though Jesse was angry ... he actually laughed after the assault," he didn't think that Jesse was angry at him.

Not contained in the police report, but potentially of greater relevance to Jesse, is what occurred next. Jesse left the track, but returned some time later. Vince saw him going back and warned him against it because he could see that Mike was there. Vince can see the track from his front yard, which is across the road from the track. He saw Mike standing on top of mound and throw Jesse's bike, which smashed the rims. After that happened, Jesse spoke to Vince briefly and went home. "He was really angry," the YJC said. When he returned home, he told his mother, who reported the offence to the police (it appears that only the assault was reported because the smashed bike is not in the police report).

Three days later, the police went to question Vince, and he admitted to what had occurred with the puppy, with his mother present. Mike was also questioned, but he did not initially admit to the offence, blaming it all on Vince (according to Vince), and his case was referred to court. About 6 months later, Mike pleaded guilty to a charge of indecent assault and was ordered to pay court costs totalling \$112.

The YJC saw Mike's actions as intending to "humiliate" Jesse. Further, she noted there was more than one victim: "the dog was a victim, as well, and so was the girl who owned the dog." This sad case does not end, with the YJC reporting that "I think the dog has since been run over or something dreadful."

### ***Police handling***

The YJC believed there was "a lot of mismanagement in this whole case." The incident occurred in a country town some distance from Adelaide, and perhaps this explains the police actions. The YJC noted that neither Vince nor Mike had been in trouble with the police in the past; thus, "it's very strange that it went to court," when a formal caution may have been more appropriate. Although Mike's court case was finalised 6 months after the incident, it took one year for Vince's case to be finalised by a conference. This is because Vince's case was set for court, but after several court dates, the matter was referred by the magistrate to a conference.

### ***Jesse, Vince, and their mothers***

The YJC believed that this "wasn't a big incident in the big scheme of Jesse's life:"

I have a feeling that Jesse's probably been fairly abused in his life ... He was an abused child and neglected ... Having this happen to him is just one more in a string of things. It's not the one thing in his life that's going to stand out as the trauma. The bike was more important to him than this. And the bullying ... That was more important. ...

Jesse has "lots of behavioural problems at school ... He gets excluded ..." Vince said to the YJC that "if people aggravate Jesse, he blows. So people aggravate him to watch it happen." According to the YJC, Jesse "has had a hard life, but he was not an easy boy."

Jesse's mother, Vince, and Carla saw each other in the supermarket a day after the police came to their house. Carla wanted to know why Jesse's mother reported the incident "because it would have been better if we'd just sat down and talked about it ... That's what I would have liked to have done because now it's just going to get really messy." Jesse's mother replied that they reported the offence because Mike had been "doing really mean things to Jesse for such a long time. He bullied him for a long long time ..." Thus, the reason she called the police was "to get Mike for doing this" to Jesse, and she was apologetic that this had led to the police charging Vince.

Carla made Vince apologise to Jesse soon after the incident. She "told Vince he had to go find Jesse [in school] and say he was sorry to him, and he did that." The YJC believes that "perhaps that should have been the end of it for Vince." Vince spoke with Jesse privately at school and apologised, and Jesse accepted his apology.<sup>27</sup>

Although Vince and Jesse were the same age, Vince was one year behind in school and in a special class. The YJC believed that Carla was "very protective of Vince ... He's had a lot of

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<sup>27</sup> The mothers met in the supermarket on a Friday evening, and the apology took place on Monday, the first day back at school. The YJC was not aware of Vince's apology until the day of the conference.

trouble at school. And I think she takes that very personally. I think people have made her take it personally.”<sup>28</sup>

Likewise, Jesse’s mother “has a lot of problems” and “is in the police system ... with outstanding stuff ... and probably things [are] increasing” (the YJC did not know for what infractions). Several of her children have been in youth detention. Soon after the offence, Jesse’s family moved out of the house (and the area), and Jesse was fostered by another family member. Later, he moved out of that placement to another one.

The YJC could not locate Jesse or his mother. “I haven’t had this kind of thing happen very often where I can’t find the victim, and the police can’t tell me where they are.” A check of Jesse’s mother in the police system showed “no known address.” The YJC was unsure what happened to her: “she’s gone somewhere ... interstate or using another name ... She’s got several other names.”

### ***At the conference***

Attending the conference, in addition to the YJC and the Police Youth Officer (PYO), were Vince and his mother Carla.

The YJC “was impressed with him ... It was really intriguing to watch him because it was such an embarrassing thing to take responsibility for.” Further, she noted that “he had a long time to think this through, a long time to think about guilt and about hurting other people and about what other people go through, and it really affected him.”

Although Vince has learning difficulties, the YJC observed that “he hasn’t got any kind of restrictions on the way he thinks ... You could see him making connections.” Vince took responsibility for the offence by “not saying it was all Mike’s fault.” He was fully remorseful and forthright about what happened, and he understood the impact of the offence on Jesse. “There was no relaxing at all. He was *there*, working” (emphasis added).

Vince “gave an example of a time [since the incident] when he stopped a fight between two people ... because it might go too far and somebody might get hurt.” This example impressed the YJC, along with how Vince related to the concept of empathy. In asking Vince what he thought empathy meant, he replied with the example of the hurt his grandmother would have suffered when she caught fire and “burned herself really badly.” His grandmother lived with Vince and his mother, and during this part of the conference, Carla “cried, and she cried because he was showing such sensitivity about the question. You know, she was just so impressed and proud of him.”

### ***Conference agreement***

There was no undertaking as a result of this conference. Rather, the case was finalised as a formal caution, with the notation that Vince had apologised to Jesse soon after the incident.

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<sup>28</sup> The referent here appears to be not only those at school, but also to Carla’s mother, who lives with her and Vince.

***Reflections on the conference***

The YJC “was glad that he got a conference ... I don’t think he was damaged by coming to a conference and talking through it ... He probably talked more today than he would have at a formal caution [by the police].” Despite this, the YJC thought it would have been better for the case to have been finalised by a formal caution in the first instance, for both Vince and Mike.

The YJC noted that compared to Vince’s having participated in a conference, for Mike’s court outcome, he “does nothing, just pays some fees ... that is less really.”

***Postscript***

Vince had no subsequent offending for 3 years after the conference to the cut-off date of the criminal history record.

## Part IV Youth-Parent Assault

### A. The literature

In Daly and Nancarrow (2010), three cases of youth-parent assault were analysed, and they were of sons assaulting their mothers. These are the typical offender-victim relationship in youth-parent assaults, based on our review of the literature. In this *Technical Report*, we present three atypical cases: two of sons assaulting fathers; and one, a daughter assaulting her mother.

Taken together, the six cases had five male offenders and one female offender, who assaulted four female (mother) and two male (father) victims. As a group, they confirm Gallagher's (2004: 5) observation that in "almost all clinical studies, ... police records of assaults, ... and records of intervention orders taken out against children," males are the primary offenders, and females (mothers) are more likely to be victims than males (fathers). It will be of interest to see the degree to which the dynamics of these atypical cases are near or far from the more typical ones.

Analyses of the gender composition of offenders and victims in youth-parent assaults focus on gender distributions of offenders (typically about two-thirds of youth cases) *or* of victims (typically about three-quarters of parent victims) (see Howard 2011). However, few report distributions of all four gender groups, e.g., male youth assaulting mothers or fathers; and female youth assaulting mothers or fathers. We infer from the literature that female assaults of fathers are the rarest type of cases, followed by female assaults of mothers, and male assaults of fathers, with male assaults of mothers being the most typical. However, sample surveys and clinical studies of youth-parent assault show somewhat different gender distributions of offenders and victims.

Gallagher (2004) calls attention to the different gender distributions in clinical compared to survey samples of self-reported offending: the former have a significantly higher share of male offenders. He concludes that males predominate as offenders; however, the higher share of females in sample surveys is likely explained by the inclusion of low-level or less serious types of offending.

Cottrell and Monk's (2004: 1072) review of quantitative research found that 9 to 14 percent of parents are "at some point physically assaulted by their adolescent children;" the rate can be as high as 29% for sole mother families (Livingston 1985). Mothers or stepmothers are the more frequent victims; and males, the more frequent offenders.<sup>29</sup> Abusive youth are likely to have been sexually or physically abused by their parents or have witnessed partner violence<sup>30</sup> (Cottrell and Monk 2004: 1073).

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<sup>29</sup> Howard (2011: 3), reviewing data from the Victorian police, finds that of family violence incidents recorded, 9 percent involved parents as victims of their adolescent children; she cites additional research from Victoria, showing that over a 9-year period, 13 percent of family violence incidents recorded by the police involved parental victims, although this figure included both adolescent and adult offenders. From Canadian and British data, it is estimated that "one in ten parents are assaulted by their children" (Howard 2011: 3).

<sup>30</sup> By "partner violence" we refer to violence between adult intimates, who may or may not be living with each other or legally married.

Cottrell and Monk's (2004: 1081) re-analysis and synthesis of two qualitative studies, which they had previously carried out, finds that while abuse by male youth "was influenced by the role modelling of masculine stereotypes that promote the use of power and control in relationships," violence by female youth was "a paradoxical response used to create distance from the 'feminine ideals' that were often ascribed to them."

They attribute youth violence toward mothers to several factors. Male youth learn that it is acceptable to control and dominate women, and female youth use violence against their mothers to distance themselves from what they see as weak and powerless women. Fathers are seen by children as powerful and intimidating, and thus, not appropriate targets; and because mothers and stepmothers are more likely than fathers to be sole heads of families, they are more accessible targets. Cottrell and Monk (2004: 1081) find that whereas "stronger youth use intimidation and control tactics against parents, less powerful youth cause injury as a means to establish power."

Parents who are excessively controlling *or* permissive are at greater risk of youth abuse. For controlling parents, youth violence reflects an increasing struggle for a sense of power; and for permissive parents, youth learn that their violence is effective in coercing parents into compliance. Cottrell and Monk (2004) see evidence of a "cycle of violence" in these cases, similar to that first identified by Lenore Walker (1979) for adult male partner violence toward females. They note, for example, that many youth "described ... having strong feelings of remorse for their actions but recalled that they instead projected intense anger toward their parents to compensate for this feeling of emotional vulnerability" (Cottrell and Monk 2004: 1085-86).

Other studies have drawn parallels between adult male partner violence toward females and male youth violence toward their mothers (Bobic 2004; Eckstein 2004; Gallagher 2004; Howard 2011), although Peek et al. (1985: 1087) suggest that male youth violence toward parents "may not be cut from the same cloth as adult-initiated family violence."

Factors associated with male youth violence toward fathers include a father being physically violent toward the youth; a "punitive, but not strict" parental power style; and a lack of parental and youth-parent agreement on house rules and expectations.

Cottrell and Monk (2004: 1082) note that "a common pattern" of parental abuse is a male youth assaulting his mother after his physically abusive father (or mother's partner) has left the home. However, relatively less frequently, male youths may assault adult males (fathers or partners in the household) "to protect the mother."

Youth who have been abused as children may become violent to their parents. Here Cottrell and Monk (2004: 1083-84) provide examples of female youth, who had been sexually abused by their fathers, who subsequently assault their mothers ("to 'tell' her about the abuse ... or as a means to express intense anger ... for not having been protected") or their fathers ("to protect others [such as] siblings [who] were also being sexually abused" by the father.) No examples were provided by them of violence by male youth who had been victimised as children. Indeed, the reasons that male youths may assault their fathers are given relatively less attention in the literature. From Peek et al. (1985), Cottrell and Monk (2004), and Howard (2011), we may infer that these are linked to mental health problems and substance abuse of male youth, a father's punitive parental style, and a father's violence toward his son or other family members.

Cottrell and Monk (2004: 1091-92) conclude that “sex-role socialization creates directly ‘imitative’ behaviors from male youth, and oppositional or ‘counterimitative’ responses from female youth.” Because mothers “are the primary targets of abuse,” their interpretive focus (like that of most others) is on sons’ and daughters’ violence toward their mothers, with less said about sons’ violence toward their fathers.

Parents who are victimized by their children may not want criminal justice intervention, nor do they want to end the relationship with their child. There is a “veil of denial” (Gallagher 2004: 11, citing Harbin and Madden 1979) surrounding the behaviour. Bobic (2004: 10) says that abused parents “distance themselves from one another or isolate themselves from family and friends for fear of the family secret being revealed.” Cottrell and Monk (2004) attribute the maintenance of secrecy to parental denial and self-blame; parental concerns about the negative impact on their children of reporting the behaviour; and parental fear about the negative impact on themselves for reporting the behaviour, including fears of an escalation of abuse after disclosure. It is noteworthy that these circumstances— isolation, denial, and fears of what will happen if the behaviour is reported to authorities—are similar to those that inhibit adult females from reporting male partner violence.

Although there may be some commonalities in the dynamics of adult male violence toward female partners and that by (male) youth toward mothers, the three cases analysed here do not fit the typical male perpetrator-female victim dyad. Furthermore, youth-parent violence reflects complex family dynamics because, as Downey (1997: 76) suggests, it may be the tip of a more systemic family violence pattern, which includes partner abuse, child abuse, and parental abuse toward children “that may be co-occurring or occurring over time.”

Thus, violence in families is often *recursive*: it is “mutually shaping,” not linear or a “cause-effect relationship” (Downey 1997: 76). One result is that the responsibility for violent acts may be diffused. For example, male youth may be both perpetrators and victims of parental violence (i.e., they assault mothers or fathers, but have been or are being assaulted by their fathers), and complex cycles of violence may generate alliances and collusion among particular family members. As noted in Daly and Nancarrow (2010), unless care is taken during a youth justice conference to check and challenge patterns of male violence in families, justice responses may create a *recursive trap* for female (mother) victims. This trap is evident when women blame themselves for, or in some cases are immobilized by, their son’s violence. We will be interested to determine how the recursive character of violence in families and the recursive trap—ideas drawn from a son/offender-mother/victim dyad—may be relevant to more atypical offender-victim dyads in youth-parent assault.

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## B. The Cases

### Overview

Two youths were male, and one was female. All offended against a parent of the same sex. In two cases, the victim was a biological parent, and in one case it was a step-parent. In all cases, there were broader behavioural problems for the youth or within the family.

### *Case #7, Sally and Ruth: Daughter-mother assault*

#### Key people in the case:

**Offender:** Sally, 13 yrs

**Victim:** Ruth, 46 yrs, is Sally's mother.

#### *The offence*

Sally, 13 years old, and her mother, Ruth had an argument about Sally making long distance calls to her friends in New South Wales. This is where Sally's father lives,<sup>31</sup> and she travels there from South Australia to visit him and her friends. Ruth had given her daughter what she believed was reasonable access, but Sally was spending more time making the phone calls than Ruth allowed.

During their argument, the phone was pulled out of the wall,<sup>32</sup> and Sally began to hit her mother in the head and upper body about four times. Ruth told Sally she was going to leave, but Sally prevented her from leaving by "cornering her" in the room. Sally grabbed two knives and raised them to shoulder height. She faced Ruth and said, "I could kill you if I wanted to. I could do a murder suicide." Ruth left the house and went to the police station. The police came to the home, arrested Sally, and brought her to the station. Once there, she was also arrested for a previous offence of property damage to Ruth's car. At the police station, Sally admitted to damaging her mother's car, but she would not provide any details; and she refused to comment on the assault. The Youth Justice Coordinator (YJC) said that these offences occurred in the "context of a long history of family disharmony," but that this was the first time that Ruth had reported her daughter's offending to the police.

#### *Before the conference*

The YJC and Ruth had a telephone conversation where the YJC explained the conference process in detail to Ruth. Later, he also left a message for Sally to contact him so that he could discuss the process with her; she "very promptly" called him back and the process was explained to her. Sally was "mostly" taking responsibility for the offence; the YJC said that she "... wasn't complaining over the phone or saying that she was too busy ... I had an impression that she was prepared to come to the meeting, was prepared to go through the process, and understood what she did wrong." He did not think that Sally was trivialising the offence or blaming the victim in anyway. However, he observed that Sally seemed anxious

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<sup>31</sup> There is no other information in the file about the relationship that Sally and Ruth have with Sally's father.

<sup>32</sup> It is unclear from the police report which person pulled the phone from the wall; however, the YJC believed it was Sally.

about not wanting the case to go further than the “diversion level” and “was looking forward to [the conference] as an opportunity to resolve the past issue ...”

Ruth told the YJC that there was a “long history of Sally wanting to assert her autonomy [over] her.” However, since she reported the offences, there were only “minor things” and that the frequency of “those sorts of things had actually diminished after she had reported it ...” The YJC suspected that Ruth was a “little” fearful of Sally.

### *At the conference*

The people attending the conference were Sally, Ruth, the YJC, and the Police Youth Officer (PYO). Ruth had multiple roles: Sally’s supporter, the victim, and a “parent trying to exercise control.” This “complicated things” because she kept moving in and out of the roles. The YJC said that it was difficult to focus the discussion on the offences because Ruth kept bringing up a “lot of stuff” about longstanding relationship problems with Sally, and what she viewed as inappropriate behaviours for a 13-year old. Ruth wanted to talk about these behaviour management problems more than the offence, and she wanted to see Sally receive counselling to “curb her general behaviour” and her “sexual precociousness.” In particular, Ruth was concerned with Sally “mixing with” older men, disappearing (sometimes for a week at a time) with men, and having sex with them.

The YJC felt that this “tendency to draw in everything under the sun” hindered the effectiveness of Ruth’s story. He said that Ruth was able to put the offending into context and give a good account of it and what led up to it; but her tendency to draw in “everything else” made her story less effective:

She was trying ... to draw in anything that she thought was relevant, and there was such a lot of a material there. I remember making statements [saying] it would be unfair ... to suggest that we could adequately resolve everything [at the conference] that she was trying to raise. It was not a possibility ... to do all of that because it was spread over many years.

The YJC thought that her story had “little to somewhat” of an impact on Sally because she had “heard it all before ... It was nothing new to hear that Mum was upset, Mum was distressed by this point [although] ... it wasn’t without an impact ...” At times, Sally would also tell her mother to “answer the question” when she “would go off on a tangent.”

During the conference Ruth put “a less dramatic spin” on Sally’s offence. The police report showed that it was “a very alarming type of assault with knives being pulled and death threats.” This was not the way that it was “presented by either of them at the conference.”

Although Sally was not a “bleeding heart saying, ‘I’m sorry, I’m sorry,’” she knew what she did was “very wrong” and that she “shouldn’t have done it.” She also “very clearly stated in the conference that it wasn’t her wish or her intent to really hurt her mother.” The YJC said she seemed “somewhat” remorseful:

It wasn’t an apology-driven conference, it didn’t really seem to be timely in terms of the relationship, or the much, much wider issues about it. I think with the fact that the young woman acknowledged what she’d done was wrong and that she wasn’t trying

to harm her mother deliberately— [that this] was probably the best that was to be hoped for.

Sally appeared to move between being an involved participant who was “eloquent and prepared to engage in discussion” and being “childish.” The YJC thought that this reflected “part of who Sally was and what Mum was talking about ... [Sally] was trying to prove her place as an adult ... person, as a much older person than she actually chronologically is.” At times Sally was disrespectful to her mother, but Ruth’s response to this would be to “point the finger at Sally.” At one point during the conference, Sally was asked what she wanted to do in the future, and she said she did not want to be a criminal like her mother.<sup>33</sup> The YJC believed that in saying this, she was “trying to provoke [her] mother into an argument.” Ruth said something like “look where you are now” but then continued by saying “... [it’s] hard work ... it’s not fair to criticise your mum.” However, Ruth had some positive comments about Sally:

Mum had some really nice things to say about [Sally] in terms of the good side of her and what she hoped for her as a mum ... So if that had been coming from a victim who was not a relative or something, I guess you might say, well, that was quite restorative, that they were actually acknowledging some really good things about the young person. ... Maybe that shouldn’t be ignored because she did choose to make those statements.

Sally was deeply concerned with her liberty and autonomy. During the conference, there was discussion about her previous bail conditions, which required a curfew. The YJC said that this caused her to “burst into tears,” and she said she did not want such conditions placed on her. When the conference discussion edged in areas concerning her liberty, Sally became “very cool again and was quite distressed.”

### *Conference agreement*

The conference agreement had two elements. Sally was

- to attend and participate in counselling for 6 months (this could end earlier by the counsellor if it was felt that Sally had achieved what was required)
- to repair the damage caused to her mother’s car by helping her find a replacement tail light cover (to be paid within 6 months)

### *Reflections on the conference*

The YJC thought that the conference “offered an opportunity to ventilate the current issue.” However, Ruth and Sally “walked out with the same relationship that they walked in with ... which [the YJC] wouldn’t have expected anything other than that, I guess.” Although the YJC acknowledged “a long history of a relationship,” he attempted to keep the conference focused on the “events at hand [because] it is not equipped to resolve or to change a long history ... That’s not what it is about. We can identify and touch on some issues, and allow people the opportunity to ventilate, to the extent it is relevant to what is at hand.” The YJC is making an important distinction: between what is possible in the “justice room” (focusing on

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<sup>33</sup> There is no information in the file on what Sally’s referent was to her mother’s being a “criminal.”

an incident) and what is possible in the “therapy room” (focusing on a broader family system and its history).

*Postscript*

About 15 months after the conference, Sally was charged with six larceny offences and unlawful possession. She admitted to these offences, and the matter was referred to and finalised in a family conference. She was required to undertake 30 hours of community service. The police record shows no further offending until the cut-off date.

***Case #8, Matt and Graham: Son-stepfather assault***

**Key people in the case:**

**Offender: Matt, 16 yrs**

**Victim: Graham, 40 yrs, is Matt's stepfather.**

**Sue is Matt's mother and Graham's partner, and is a supporter of both.**

***The offence***

Graham, Matt's stepfather, came home from his job as a cleaner just after midnight on Saturday. He started to argue with Matt, 16 years old, about a missing \$5 note and some expensive telephone calls. The argument moved through the house and finished in Matt's bedroom. Graham told the police that Matt became very aggressive and abusive to him when they were in Matt's bedroom, and that he had attempted to restrain Matt. They began to "wrestle" on the bed when Matt kicked him in the leg. Then, Matt grabbed a fish filleting knife and threatened to kill him twice. Graham was in "real fear" that he would be stabbed or cut by Matt. At this stage Matt's mother, Sue, entered the bedroom. She asked Matt to let go of the knife. Matt threw it in the air, and she picked it up. After this, she called the police, and Matt was taken to the police station and charged.

Matt told police that when they were in the bedroom, Graham was holding him around "the neck area," and Matt believed that Graham was trying to choke him. He said that he grabbed the knife and held it towards Graham in a "threatening manner" but did not threaten to kill him. He told the police he was very angry, and admitted he loses "his temper badly at times." He said he was sorry, and he understands that his actions were serious and dangerous.

Matt was charged and placed in a police cell. He was in the cell for 3 hours, which the Youth Justice Coordinator (YJC) thought "was a bit odd, mum and dad refusing to go and get him." The police told Sue and Graham that if Matt stayed in the cell, the police would need to move him to a youth detention centre and then take him to court. Graham agreed to come to the station to get Matt because they wanted it to be resolved by the police, rather than Matt going to court. Sue told the YJC that she "didn't want her son to be seen as a criminal, but they had tried everything to get this kid to listen to them. When the knife was produced, that was the final straw."

After the offence, Matt moved to a friend's house, and the YJC thought this was a "secondary thing that was already planned, like he's gotta to move out, so he was looking and then this happened, and everyone just agreed today's the best time to do it."

***Family dynamics***

Graham had been in the family for over 3 years, since Matt was about 13 years old. Matt's behaviour towards him has, in the words of the YJC, been "outrageous" for about 18 months (since Matt was 15 years old). Matt has a brother, 4 years younger. The YJC thinks there is "favouritism because the younger brother does everything he's told, when he's told. He's the glowing light ..." The YJC said that it was "pretty evident that there was this dynamic between Graham and Matt, which meant that they only had to look at each other or smell each other and the buttons were being pushed ..."

The YJC thought that Matt had a lot of expectations placed on him about how he should behave, but “no one had actually told him what those expectations were.” At the conference, it was still unclear what time Matt was meant to be home at night. His mother said a “reasonable” time, but there were different opinions among her, Graham, and Matt about what time this was. In the YJC’s view, it was not clear what the house rules were. When there was inconsistency in these rules and expectations, Matt would follow Sue’s instructions and tell Graham that he did not have to listen to him because he was not his father.

### ***Before the conference***

The YJC had two 10-minute telephone conversations with Matt, two 30-minute phone conversations with Sue (with Graham nearby), and a 15-minute conversation with Graham alone. When the YJC was on the phone with Sue, he recalled she was “telling Graham as it was going on, it was almost like the phone rang, so [Graham’s] got to be there to hear, and it was a clue of, ohhh, ‘how much control do you need, mate?’” The YJC believed that Graham was making Sue relay their conversation, and that this was indicative of the control that Graham had (or desired to have) in the household.

The YJC thought that Matt gave good priority to the case and that he wanted to resolve it without going to court. However, he also thought that Matt was blaming Graham for the offence:

He was reciting the same fact all the time. That had Graham not carried on about the \$5 ... This \$5 was a magical \$5, no one knew where it ended up, but everyone had seen it at some stage ... then it wouldn’t have actually got to a point of arguing in the extreme. ... It was also the fact that Graham followed Matt into his bedroom ... Graham couldn’t just let him go and cool down [but] actually had to go in, and “no, you’re not walking away from me ...”

Matt was sorry that his actions had resulted in calling the police and was sorry for “what he was causing his mum,” but the YJC believed he was not remorseful towards Graham. Matt continued to say that Graham “shouldn’t have been carrying on ... It could have been finished if [Graham] hadn’t followed [Matt] and then kept badgering ...” Despite this, the YJC did not anticipate any difficulties with the conference. The only concern was “about the family dynamic and the situation we were putting Sue in—of having to support both—what that might mean for her [after the conference].”

### ***At the conference***

Attending the conference in addition to the YJC and the Police Youth Officer (PYO) were Matt, Graham, and Sue. The YJC thought that Graham was effective in describing the offence and its impact on him: “he got us to hear exactly what he wanted us to hear.” The YJC said that Graham:

certainly got it, a victim perspective, of how violated he felt, how intimidated, how threatened and again, from his perspective, if that’s how he saw it, he was justified ... I must admit that I was with him until he kept repeating certain phrases and things. Each time, once we got to a certain point it was [I felt like saying] “oh, give it up, enough is enough, you know, how often do you flog this horse?”

The YJC sized up the family situation this way:

Having read the file, having had a chat with mum, having had Graham's input and in my initial conversation with Matt, the picture I had was a kid who was off the rails, who just wasn't able to take boundaries and live within them. He was challenging every adult that he came across ... But as Graham spoke, it was becoming more and more like [I wanted to say], "Matt, I can understand where you're coming from mate, and you're lucky you didn't have a sword with you ..."

The PYO told Graham that it is "inappropriate to put pressure on someone's throat, even if you did feel at risk. You could have quite easily said 'no,' [and] got up." But, in the YJC's opinion, Graham "wouldn't buy that ... I'm in a fight, I'll finish it."

The YJC had a negative view of Graham and his behaviour in the conference: "I don't think Graham did any favours for himself, with [the PYO] or me, in maintaining our level of resolve to get a good outcome for him ... He was actually eating it away every time he opened his mouth." At the same time, the conference was "very clear about the seriousness of the event, that this was an offence that we were surprised—given the nature of the knife—that it had come to a conference ..." He continued:

[Graham] was receiving all that ... the courts are with me ... but then instead of leaving it at that ... he basically destroyed his credibility by then taking any positives that had been gained and turning them against Matt, who was by this stage beginning to become the victim in our heads ...

Graham's controlling and negative behaviours led the YJC to think that Graham's story did not affect Matt, who "wasn't buying it" and sometimes blamed Graham for what had happened.

During the conference the PYO "shared a lot about herself and her personal stuff about growing up in a family where she and her father didn't get on very well, and she was basically able to say 'Matt, I know where you're coming from.'" The YJC thought that this made the conference "interesting," and it was "one of the good things that happened ... Matt was able to say, 'oh, it's not all my fault' ..." The YJC observed that Graham was dismissive of the PYO and what she said.

At the beginning of the conference Matt was "very cocky," but then he "mellowed ... and took on more responsibility and was actually willing to hear us out ..." He was "very open" about his actions. When Matt was asked questions, he "actually thought about the response ..." Graham would often interrupt Matt, but the YJC said that it was good that Matt was not openly disrespectful to Graham and would continue to answer questions when asked.

Matt had a sense of knowing "how stupid it was, but that [he was] not going to trump that up now because [he was] having too much of a good time putting the boot in, you know 'I've 15 minutes to say what I want to say about him' ..." Matt was not trivialising the seriousness of the offence, but was trivialising "the reason why it got to that point ... He was quick to say, 'if Graham didn't follow me in, it wouldn't have happened;' ... [But] the assault and threaten to harm, he very clearly understood the impact of that." The YJC thought it was an "interesting insight from Matt" that he referred to Graham as the "adult who could have made the

decision to stop it ...” At the conference, Matt still only appeared to be remorseful for “being in the court process ... [and for] dragging his mum through it ...”

The YJC thought that it was important to hear something positive about Matt in the conference. Sue spoke about how he was a good student and did not get into trouble at school; however, Graham would not acknowledge this. When asked why he did not get into trouble at school, Matt explained it was because “we can talk about it and work it out, or I walk away.” The YJC thought that this was positive because Matt would have left the conference feeling like “someone actually hears [him].” Another positive event was the discussion concerning setting the house ground rules. He thought that these rules were necessary for this family and good for Sue because it meant “she doesn’t have to be the mediator between the two extremes.”

### ***Graham***

Graham gave very high priority to the case: “he wanted it dealt with, and ... reading between the lines, I think he was getting a bit of the guilts that it had actually got to this point.” The YJC said that, during the conference, “what I saw was someone who was very clearly over-talking, taking control, not letting people finish, even the police officer when they were trying to explain something, it was, ‘yeah we know that, but refocus on me, bring it back to me, please.’” The YJC characterised Graham’s motives for engaging the legal process as being single-mindedly to enforce his victim status:

... The rationale for coming to the conference was as a punishment so that Matt would actually learn that he’d crossed the line and that he had violated Graham. That was not going to be accepted anymore, and now Graham had allies in the court. It wasn’t [an attitude of] “let’s see what we can do and see if we can resolve this.” At no point did Graham acknowledge that he was any part to do with this, other than a victim.

Graham was controlling throughout the conference, often using repetitive and emotive language, and the YJC believed that he was also controlling in the home. He could “understand why we’re here, because even [at the start of the conference when the offence was being described], you could hear [that] Graham was the centre of the universe.”

The YJC believed that Graham saw the conference as a means to take a “punitive approach” to Matt’s offending: “he wanted the book to be thrown.” The YJC thought that, if asked what the conference achieved, Matt would say “it was good because he got some rules in place and everyone knew that,” whereas Graham would probably say the conference was good because “he’s got the record now, very clearly he’s on the system.”

### ***Sue***

When the YJC was speaking with Sue on the phone, she appeared to be “very mild and meek ... She gives the impression of being downtrodden or very well-controlled.” However, when the YJC met Sue, he wondered if she needed to “put up that facade because she sounds very confident ...” Despite this, the YJC thought that it “was interesting” that Sue did not say anything during Graham’s description of the offence, except to make some “clarifying comments.” He interpreted this as Sue following “the Graham line,” and wondered if Graham had given her instructions before the conference. Yet, the YJC also saw a confident side to Sue. For example, during a discussion of the need to decide on the house rules as a

group, Graham challenged this. The PYO said it was important that Matt was involved so he would “own them,” and Sue agreed with the PYO, saying that it “seems reasonable” and they should decide the rules together.

The YJC observed that during the conference, Sue was torn between supporting her son and her partner. When she spoke, she was either “giving Matt ammunition [to use against Graham]” or she was “virtually selling [her] son down the river.” The YJC said it seemed like Sue was:

... stuck between a rock and a hard place because she had her son who she'd phoned the police to get there, didn't want him locked up, but that was what the police decided had to happen. And she was balancing supporting her husband ... She took it very hard.

At the conference, Sue spoke about Matt learning some of his behaviour from his father, and we could infer that Matt's father was physically abusive. In his conversations with Matt, the YJC thought that Graham may have also been physically abusive toward both Sue and Matt, but he was unsure. He did not see anything to make him suspect physical abuse, and Sue did not say anything that “would have actually backed that up.” He remembered that Sue said something like, “I know what it's like, you know, Matt learnt some of these behaviours from his father ...” However, he continued, “she could have quite easily said ‘now I've got the best man in the world.’ She was quite realistic about Graham, you know, ‘he's not the angel, but compared to what we had, he's not there either.’”

### ***Conference agreement***

The conference agreement had three elements. Matt was

- to attend an anger management session
- obey the house rules for 6 months
- not assault, threaten, harass, or intimidate anyone in the house for 6 months

Sue was the agreement supervisor, not Graham, because she was more neutral and because the YJC wanted to give some power to Sue. The YJC noted that Matt seemed to think the agreement was fair and reasonable. Further, the YJC said that Matt was active in the process: he suggested changing the element about not assaulting or threatening anyone, raising the length of time from 4 months to 6 months; and he was involved in drafting the house rules and had suggested his own curfew. Sue agreed that his suggested curfew was reasonable.

Matt did not apologise at the conference, but the YJC said that they did not push for it. This was because Matt said that it would not be a “heartfelt apology” and because the YJC did not think that Graham would have accepted an apology at the time.

### ***Reflections on the conference***

As they came into the conference, the YJC recalled Sue said to Matt, “‘you better learn your lesson today;’” and when they left, she asked, “‘I hope you've learnt something today?’” Matt responded to this by saying “something about fairness.” As they were leaving the conference, it was clear to the YJC that there was “a real discussion going on and a smile from Matt that he had been heard.” When the conference ended, Sue and Matt left together

on a train, and Graham drove to work. The YJC believed that even if Graham did not have to go to work, Matt would probably not have gone home in the car with Graham.

The YJC spoke to Sue about 3 months after the conference. She told him there was “remarkable improvement” in Matt’s attitude. “Initially she thought the [police] cell was a good shock, but it didn’t last. But it was actually talking through the conference and hearing [the PYO] talk about how he’s not alone ... and the fact that they went home and before Graham got home, they had a set of rules ready ...” The YJC said:

That’s just what [Sue] needed ... someone to say, “Sue, set the rules how you want them.” ... As long as you have Matt saying “yeah, I’ll agree and that’s reasonable.” ... The underlying issue was the power that had been taken from Sue ... [The conference] was able to give some of that power back ... You’re the mother, you can start saying yes and no ...

The YJC believed that Matt was “taking a lot more responsibility not to wind Graham up because he’s ... taken some ownership of the rules, the expectations, he’s actually bought them, and said, ‘yes, I’m happy to buy them.’” However, he thought that Graham had not “moved too much, [although] he’s pulled his head in a bit too.”

The YJC said it was a “major surprise” that after nearly 3 months Matt was still following the agreement because:

I suspected that what we’d witnessed in the conference between Graham and Matt was going to be ongoing. Regardless of what we said and what we did, the dynamic was really in their hands as to whether it was going to get any further or not. And it did, [which] surprised me at the time.

The YJC admitted that at the conference he was unsure if “this kid was ... gunna succeed” and if “he was capable of doing it ...” He believed that the conference was good because it showed Matt that he is “not to second guess [what Sue says], like if mum says ‘no’, it’s no, if mum says ‘yes’, don’t push it, take it ... I think that came through as being a win for Sue as well.” He also thought that it was an appropriate case for a conference because:

It gave the victim a voice, and gave the young person not only ... an opportunity to hear it in a safe environment, but it gave them the opportunity to respond in a safe environment. I think the other benefit was they got ... examples of what house rules could be so that there was ... some structure to those rules before they left ... This was a major improvement: whereas the rules had been inconsistent or non-existent, they became explicit.

### ***Postscript***

Matt attended an anger management session. He complied with all the elements in his agreement, and during the 3 years after the conference, the police record shows no further offending.

***Case #9, Dan and Scott: Son-father assault*****Key people in the case:****Offender: Dan, 15 yrs****Victim: Scott, 37 yrs, is Dan's father.****Leah is Dan's mother and Scott's partner, and is a supporter of both.*****The offence***

At the time of the offence, Dan was 15 and lived with his biological parents, Leah and Scott. He had a job at a fruit and vegetable shop with a start time of 6 am. Scott usually drove Dan to the shop on his way to work, but on this morning Scott stayed home. Dan asked his mother Leah for a lift, but she would not take him. This resulted in an argument between Dan and Scott. Dan approached his father and punched him in the face and head approximately 12 times. Scott put his son in a headlock to restrain him until the police arrived. When he was in the headlock, Dan tried to kick his father in the face but could not make contact. At the time, Dan was under a bail agreement.<sup>34</sup> He admitted to the police that he assaulted his father because he was “angry that his mother would not give him a lift to work,” and he knew this meant that he was in breach of his bail agreement.

***Family dynamics***

Leah is the foster child of Scott's parents, i.e., her mother-in-law is also her foster mother. There is no information in the file about when she moved into Scott's family home and how long she lived with them. Dan is close to his grandmother (Scott's mother), but Leah would not allow her to attend the conference. The Youth Justice Coordinator (YJC) believed that the grandmother was “fairly well ostracised by Leah” and this was because “they see her as interfering ...” The YJC was concerned and puzzled that Leah would not allow Dan's grandmother to attend because, in the opinion of the YJC, she would have been “good value.”

Dan had a history of property and arson offences, but the YJC did not think there was a “chronic violence situation” in the home. After the offence was reported, Dan briefly spent time in a police cell, he then went to stay at his grandmother's house. The YJC noted that Leah was “reasonably happy” with Dan's behaviour since he returned home from his grandmother's house a “day or so” after the offence. The YJC reported that Dan's grandmother said that “he's not a bad kid. She respects him. He gets up very early and goes to work, and he does some jobs for her to get money ...” The YJC believed that “if things were really bad on the day that the offence occurred, things were better now in the family ...” When the YJC was asked if Dan's arson was a “form of family violence,” he said it was “a point I never thought of ...”<sup>35</sup> He said that Leah and Dan's grandmother had not mentioned any “trouble with [Scott]” or his discipline of Dan.

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<sup>34</sup> It is unclear which offence this bail agreement was in relation to.

<sup>35</sup> In the post-conference interview, the YJC said the arson offence involved “burning something in the waste paper bin” at Dan's grandmother's house.

### ***Before the conference***

The YJC thought that Leah and Scott saw this as an “open and closed case.” However, it is uncertain how he reached this conclusion: he had not spoken to Scott and had only one 10-minute telephone conversation with Leah. When asked about his contact with Scott, he replied:

I thought about talking to Scott, but I thought, if I did that in this particular case, it would have only been that I would have asked questions for you [referring to the research project] and [it would be] me acting a different way to what I normally do. Cause ... something like this looks pretty standard, you know, nothing too controversial or difficult to deal with ...

Although the case seemed “pretty standard” to the YJC, he was concerned that Dan’s grandmother was not allowed to attend the conference. He felt there was missing information about the family dynamics that he did not have, and was uncertain if the conference would be “one of those left-field ones.” It is difficult to reconcile the YJC’s differing anticipations of the conference as being “standard” and potentially “left-field.”

During the pre-conference interview, it was learned that the YJC had not spoken to Dan at that point (3 days before the conference). However, just after the pre-conference interview, the YJC called back to say that he had spoken to Dan by phone for about 5 minutes. He reported that Dan’s answers were “typical 15-year-old [answers]. He would answer questions, but [was] not forthcoming ...” Based on this conversation, the YJC thought that Dan was taking responsibility for his actions “somewhat,” but was not at all remorseful. In the pre-conference period, Dan had begun anger management counselling.

### ***At the conference***

In addition to the YJC and the Police Youth Officer (PYO), those attending the conference were Dan, Scott, and Leah. After the introductions, Dan was asked to explain what happened. Leah and especially Scott wanted to “jump in and explain things.” Thus, the YJC said he had to “shift the discussion” at the start of conference; otherwise, Dan’s parents would not have allowed him to take a large enough role. Dan appeared to understand the seriousness of the offence. When asked to rate its seriousness on a scale from one to ten (with ten being “extremely dangerous”), he rated it ten.

Dan’s parents said that around the time of the offence, things had been “particularly bad,” and “[Dan’s] behaviour had been particularly difficult.” Leah and Scott had “put this down to his medication.” At the time of the offence, Dan had been taking Zoloft, an anti-depressant, for about 4 months. When he was taking the medication, his behaviour had been difficult; and his parents threatened not to drive him to work if he continued to misbehave. The YJC said that the day before the offence, Dan had been behaving in a threatening manner towards Leah and had pushed her. This is why Leah refused to drive him to work on the morning of the offence. The YJC said that Leah called the police because she “was worried someone was going to get hurt ...,” but the YJC believed that Scott “may have indicated to do that.”

According to the YJC, Scott was highly effective in describing the offence because he was “clear about what happened, ... and Dan didn’t have any disagreements about what he was saying.” The YJC believed it was unlikely that Scott’s story had an effect on Dan because:

they all shared the common story about what happened that day. There were no disagreements about how events unfolded, and Dan ... understood why the police asked him if he could understand why the police had to be called, and he did ... He understood his parents using the sanction of withdrawing the right to work because of his behaviour.

During the conference, it was revealed that before the fight started, Dan had telephoned his employer to tell him he would be late for work. After the call, he became agitated because he thought he was going to lose his job. This escalated the argument, and at the time Dan also threatened to smash his father's television. YJC did not think Scott was frightened of his son. Rather, Scott was concerned that Dan "was out of control." Scott was dealing with the offence in "... the same way ... the police would ..." He was not "emotionally harmed," and counselling assistance for him was not raised, the YJC saying, "no, it wasn't needed. Honestly, it wouldn't have been much use. You wouldn't even know [how] to raise it."

The YJC thought the conference had a "nice comfortable positive flavour." One reason was that Dan's mother and father "admired" that he was "holding down a job" and was probably going to become a permanent employee at the fruit and vegetable shop.<sup>36</sup> Both parents showed Dan "support and concern" throughout the conference.

Dan and his parents agreed that the risk of further violence in the family was probably "very light now." The YJC believed that Dan was not exercising control over or intimidating Scott, and they "seemed like a reasonable bonded family." The YJC felt that Leah was:

being fairly even handed between support for her husband and Dan. They dealt with this as a joint parent thing ... They were a team; they were presenting as parents with a common view about the problems.

According to the YJC, Dan accepted full responsibility and was "somewhat remorseful" at the conference. He did not have an "emotional display" of remorse, but he "obviously regretted" his actions. He had apologised to Scott about a week after the offence. The YJC felt that this apology had been accepted by Scott and that there was nothing to "indicate there was any problem [with the apology]."

At the end of the conference, another offence was discussed, which had occurred one month before Dan's assault of his father. Careful inspection of Dan's offending record shows that the assault on his father was the last in a string of offences that occurred during a 4-week period.<sup>37</sup>

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<sup>36</sup> At the time of the offence, the police report showed that Dan was enrolled in high school.

<sup>37</sup> Before the assault on his father, Dan had been charged with assault and carrying a weapon, a larceny, and arson and resisting arrest.

***Conference agreement***

The conference agreement had these elements:

- continue anger management counselling for 12 months
- attend a Just Consequences session
- acknowledge his previous apology

***Reflections on the conference***

The YJC believed the case was appropriate for a conference because “the family initiated the call to police in an appropriate way ... It was about empowering the family with the decisions already made and actions they’d taken.” He said that “there was no crying or arguing. It was a very non-conflictual conference. It was an easy one to do.” He reported that Dan said that he is “much better now he’s not on that medication.”

***Postscript***

Dan complied with the elements of his agreement. About 3 months after the conference, in late February 2002, Dan attended a conference for the assault (this was held about 5 months after the offence occurred). Then in May 2002, Dan attended two conferences on the same day for arson and larceny (about 8 months after these offences were committed). Somewhat oddly and as briefly noted on the preceding page, all these offences occurred during the immediate period of time before his assault on his father, the subject of this conference.

After the last conference in May 2002, Dan stayed out of trouble for almost a year. However, he was then charged with damaging property, and the case was finalised in the Youth Court without conviction. About 7 months later, he was charged with trespass and carrying a weapon, and the case was again finalised in the Youth Court without conviction. The police record suggests he stayed out of trouble for the next year until the cut-off date in 2004.

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Note: When the notation to “See Daly webpage” is given, the address is [www.griffith.edu.au/professional-page/professor-kathleen-daly/publications](http://www.griffith.edu.au/professional-page/professor-kathleen-daly/publications).

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## Appendix 1. Description of the in-depth cases in (A) cases in this report and (B) cases in previous publications.

## (A) Cases in this report

SAJJ Case #	Type	Publication	Names	Offence	V sex & age	YP's sex & age	YP-V relationship	Length time abuse (est)	Days b/w offence & disclose to police	Offence facts
8	SSV	this report: case #1	Ben (YP) Marie (V)	rape	F, 8	M, 14	siblings (YP's sister)	3 years	approx 1 week	V and YP were playing in YP's bedroom at home. V was in wardrobe with a blanket over her head. YP pulled V's pants down and inserted his finger into V's vagina. Their mother walked into bedroom when the assault was going on. V was upset and crying, and she was bleeding slightly. YP admitted to this offence and at least five past similar offences over several years.
14	SSV	this report: case #2	Jack (YP) Lucy (V)	USI person <12	F, 6	M, 12	siblings (YP's half-sister)	unclear (but ongoing)	infer that V's mother reported to hospital within a few days (the hospital reported to the police).	At the family home, YP removed his step-sister's pants and touched her on and inside her vagina with his fingers.
11	SSV	this report: case #3	John (YP) Larry (V1) Rita (V2)	indecent assault x 2	V1: M, 6 V2: F, 5	M, 13	siblings (YP's step-brother and YP's sister)	1 year	approx 6 months	YP fondled V1's penis and buttocks on several occasions. Fondled V2's buttocks and had "simulated sex" with clothes on. YP's father discovered the latest assault in progress.
1	SSV	this report: case #4	Nathan (YP) Emma (V)	indecent assault	F, 5	M, 14	siblings (YP's half sister)	unclear (but ongoing)	several months	In the family home, YP removed V's knickers and rubbed V's genital area with his fingers. He also exposed his penis. Their mother later noticed something was wrong, and V told her what had happened. YP confronted by parents and made admissions.
2	SV family friend	this report case #5	Tim (YP) Crystal (V)	indecent assault	F, 3	M, 14	YP's family is friends with V's family	single incident	same day	While V was at a BBQ with her grandparents, YP fondled her genital area outside of her clothing. V told her grandmother, and YP admitted to the offence.
9	SV male rape	this report case #6	Vince (YP) Jesse (V)	indecent assault	M, 10	M, 10	friends	unclear (but infer single incident)	same day	On the playground, two YPs play-wrestled with V. Then YPs held victim down and forced a dog's penis into his mouth. This YP admitted to the offence and said he was sorry. [V is Aboriginal] [co-YP went to court]
6	FV daughter-mother	this report: case #7	Sally (YP) Ruth (V)	assault on person	F, 46	F, 13	daughter-mother	unclear (but ongoing)	same day	While at home YP and the V had argument about YP making long distance phone calls. YP punched the V four times in the head and upper body. V tried to leave but YP prevented her. YP threatened her with two knives, saying "I could kill you if I wanted to."
3	FV son-stepfather	this report: case #8	Matt (YP) Graham (V)	assault on person	M, 40	M, 16	son-stepfather	at least 18 months	same day	Following an argument about missing money, YP became aggressive and abusive with the V. He then kicked the V and threatened him with a fishing knife. YP admitted kicking V and holding the knife to V.
12	FV son-father	this report: case #9	Dan (YP) Scott (V)	common assault	M, 37	M, 15	son-father	a few months	same day	YP and V had an argument in the front yard about YP's mother not giving YP a lift to work. YP was also in breach of a bail agreement. YP punched his father in the head about 12 times, resulting in soreness but no injuries.

SAJJ Case #	Type	Publication	Days b/w offence & conf	V at conf	Number of participants excl YJC & PYO	Length of conf (mins)	V interview	Length of V interview (mins)	Length of YJC interview (mins)	Offence facts (Repeated for clarity)
8	SSV	this report: case #1	186	no, rep only (mum)	4	140	yes	85	105	V and YP were playing in YP's bedroom at home. V was in wardrobe with a blanket over her head. YP pulled V's pants down and inserted his finger into V's vagina. Their mother walked into bedroom when the assault was going on. V was upset and crying, and she was bleeding slightly. YP admitted to this offence and at least five past similar offences over several years.
14	SSV	this report: case #2	279	no, rep only (V's mum)	5	115	yes	85	100	At the family home, YP removed his step-sister's pants and touched her on and inside her vagina with his fingers.
11	SSV	this report: case #3	349	no & no rep	2	90	no/declined	n/a	95	YP fondled V1's penis and buttocks on several occasions. Fondled V2's buttocks and had "simulated sex" with clothes on. YP's father discovered the latest assault in progress.
1	SSV	this report: case #4	159	no, rep only	6	120	not eligible	n/a	100	In the family home, YP removed V's knickers and rubbed V's genital area with his fingers. He also exposed his penis. Their mother later noticed something was wrong, and V told her what had happened. YP confronted by parents and made admissions.
2	SV family friend	this report case #5	333	no, rep only (V's mum)	8	170	yes (2 Vs)	160 (rep 1), 100 (rep 2)	130	While V was at a BBQ with her grandparents, YP fondled her genital area outside of her clothing. V told her grandmother, and YP admitted to the offence.
9	SV male rape	this report case #6	400	no & no rep	2	70	no/moved away	n/a	130	On the playground, two YPs play-wrestled with V. Then YPs held victim down and forced a dog's penis into his mouth. This YP admitted to the offence and said he was sorry. [V is Aboriginal] [co-YP went to court]
6	FV daughter-mother	this report: case #7	57	yes	2	60	not eligible	n/a	120	While at home YP and the V had argument about YP making long distance phone calls. YP punched the V four times in the head and upper body. V tried to leave but YP prevented her. YP threatened her with two knives, saying "I could kill you if I wanted to."
3	FV son-stepfather	this report: case #8	76	yes	3	105	not eligible	n/a	80	Following an argument about missing money, YP became aggressive and abusive with the V. He then kicked the V and threatened him with a fishing knife. YP admitted kicking V and holding the knife to V.
12	FV son-father	this report: case #9	35	yes	3	60	no/declined	n/a	60	YP and V had an argument in the front yard about YP's mother not giving YP a lift to work. YP was also in breach of a bail agreement. YP punched his father in the head about 12 times, resulting in soreness but no injuries.

## (B) Cases in previous publications

SAJJ Case #	Type	Publication	Names	Offence	V sex & age	YP's sex & age	YP-V relationship	Length time abuse (est)	Days b/w offence & disclose to police	Offence facts
5	FV	Daly and Nancarrow 2010	Tom (YP) Anna (V)	assault on person	F, 47	M, 14	son-mother	unclear (but ongoing)	same day	V intervened in an argument between YP and his sister. YP hit V with a broom handle. She left the house because she was scared and contacted police. V wanted police to intervene, but was reluctant to initiate proceedings. History of DV in household.
7	FV	Daly and Nancarrow 2010	Mitch (YP) Shelia (V)	common assault	F, 45	M, 15	son-mother	unclear (verbal abuse ongoing, but V says this is the first time it was serious)	same day	V was taking some left over pizza to her boyfriend, who lived next door. YP stopped her, grabbed her around the throat, and punched her in the face. YP strangled and held her against the wall before he released her and verbally abused her. History of DV in household.
10	FV	Daly and Nancarrow 2010	Des (YP) Carolyn (V)	assault on person	F, 35	M, 16	son-mother	at least 18 months	same day	YP returned home intoxicated. He became aggressive toward his mother and ripped the phone from wall when she tried to call the police. V tried to leave, but YP pushed her against the door. He slammed a knife into the bench, narrowly missing V's fingers. He threatened to kill V if she tried to leave. V finally ran out of house and called police. Ongoing problems with YP unable to control anger when drunk. We infer a possible history of DV by V's previous partner (the YP's father).
4	SV	Daly and Curtis-Fawley 2006	Rick (YP) Rosie (V)	indecent assault	F, 12	M, 17	acquaintance	single incident	same day	V and YP were at an army camp. YP pushed V to the ground and fondled her breasts, bottom, and genital area over her clothing. YP tried to remove her pants, but V elbowed YP and ran away.
13	SV	Daly and Curtis-Fawley 2006	Zac (YP) Tanya (V)	USI	F, 13	M, 17	siblings (YP's step-sister)	approx 9 months	a few months	At the family home, YP coerced his step sister into sexual intercourse on at least six occasions. V also reported YP had previously fondled her on a daily basis. YP said the sexual contact occurred with V's consent.

SAJJ Case #	Type	Publication	Days b/w offence & conf	V at conf	Number of participants excl YJC & PYO	Length of conf (mins)	V interview	Length of V interview (mins)	Length of YJC interview (mins)	Offence facts (Repeated for clarity)
5	FV	Daly and Nancarrow 2010	67	yes	2	90	not eligible	n/a	140	V intervened in an argument between YP and his sister. YP hit V with a broom handle. She left the house because she was scared and contacted police. V wanted police to intervene, but was reluctant to initiate proceedings. History of DV in household.
7	FV	Daly and Nancarrow 2010	109	yes	4	100	yes	40	155	V was taking some left over pizza to her boyfriend, who lived next door. YP stopped her, grabbed her around the throat, and punched her in the face. YP strangled and held her against the wall before he released her and verbally abused her. History of DV in household.
10	FV	Daly and Nancarrow 2010	50	yes	3	105	no/declined	n/a	160	YP returned home intoxicated. He became aggressive toward his mother and ripped the phone from wall when she tried to call the police. V tried to leave, but YP pushed her against the door. He slammed a knife into the bench, narrowly missing V's fingers. He threatened to kill V if she tried to leave. V finally ran out of house and called police. Ongoing problems with YP unable to control anger when drunk. We infer a possible history of DV by V's previous partner (the YP's father).
4	SV	Daly and Curtis-Fawley 2006	433	yes	6	150	yes	65	135	V and YP were at an army camp. YP pushed V to the ground and fondled her breasts, bottom, and genital area over her clothing. YP tried to remove her pants, but V elbowed YP and ran away.
13	SV	Daly and Curtis-Fawley 2006	270	yes	5	125	yes	75	155	At the family home, YP coerced his step sister into sexual intercourse on at least six occasions. V also reported YP had previously fondled her on a daily basis. YP said the sexual contact occurred with V's consent.

Appendix II. Comparisons of hands-on offences only in the SAAS dataset, sibling (A, N=59) and non-sibling (B, N=266) cases. Excludes N=60 hands-off cases.

	sibling cases <sup>1</sup> (N=59) A	non-sibling cases (N=266) B	statistically significant differences (.05)?
pre-SAAS offending (yes)	27%	42%	yes
post-SAAS offending (yes)	49%	53%	no
post-SAAS sexual offending (yes)	9%	10%	no
YP is male	98%	98%	no
Primary VIC is female	73%	82%	no
YP is Aboriginal Australian	2%	11%	yes
YP showed remorse at police report (yes)	20%	10%	yes
YP made some or full admission at police report (yes)	82%	64%	yes
AGE at offence (mean)			
YP (yrs)	14.3	15.2	yes
VIC (yrs)	7.7	12.6	yes
average "gap" (mean, yrs)	6.6	2.6	yes
Most serious sexual offence type:			
penetration by penis	48%	35%	no
oral sex	10	7	
penetration by fingers/other	10	13	
simulated sex/fondling/made to touch genitals	32	45	
	<u>100%</u>	<u>100%</u>	
Multiple incidents with one or more victims (yes, on-going abuse)	64%	23%	yes
Mean N of incidents (whole offence) <sup>2</sup>	4.6	2.2	yes
Offence seriousness (range 1-10) (mean)	4.53	3.93	yes
Where offence took place in/near YP's & VIC's home	76%	3%	yes
Duration of victimisation for primary victim (all cases) (weeks)	mean= 26.6 median= 7.7	mean= 9.0 median= 0	yes
Mean duration of victimisation for primary victim (only cases with on-going abuse) (in weeks)	mean= 41.2 median=24.3	mean= 39.3 median=19.3	no

	sibling cases (N=59) A	non-sibling cases (N=266) B	statistically significant differences? (.05)
Mean duration of victimisation for primary victim ( <i>siblings plus relatives, N=83</i> ); only cases with on-going abuse (in weeks)	mean= 48.0 median=34.0	mean= 32.9 median=18.2	no (.10)
Mean duration of offending (whole offence) (in weeks)	mean= 36.9 median=10.7	mean= 13.0 median= 0	yes
Weapon used? (yes)	9%	11%	no
Resistance by VIC? (yes)	34%	52%	yes
YP manipulated a position of trust? (yes)	83%	45%	yes
YP restrained VIC? (yes)	22%	34%	no
YP enticed/lured VIC? (yes)	5%	6%	no
YP threatened to harm VIC if did not comply or if reported offence(s) (yes)	24%	14%	no
Sex offence was proved, ALL cases (yes)	83%	62%	yes
Sex offence was proved, COURT cases only (yes) <sup>3</sup>	72%	45%	yes
Finalised by conference court formal caution	56% 42 2 <hr/> 100%	27% 66 7 <hr/> 100%	yes
Attended Mary Street pre-disposition (yes)	27%	7%	yes
Mary Street at any time pre or post legal outcome (yes)	68%	23%	yes
Mary Street at any time pre or post legal outcome, COURT cases only (yes)	56%	16%	yes
Any counselling part of the outcome (Mary Street or other) (yes)	73%	37%	yes

## Notes

1. Siblings are biological, foster, or step relations.
2. Analysis excludes three outliers (one sibling and two non-sibling cases) with very high N of incidents.
3. N in COURT case only analysis: N=25 (siblings) and N=175 (non-siblings).

## Appendix III

Comparison of SAAS sample of sibling sexual abuse cases charged by police in South Australia (N=59 between 1995 and 2001) and those described in Krienert and Walsh (2011) for sibling sexual abuse incidents reported to the police in the United States (N=13,013 between 2000-2007; as cited in Stathopoulos 2012: 8).

	Daly et al. (2007), SAAS dataset (N=59)	Krienert & Walsh (2011) (N=13,013)
victims under 13 yrs (yes)	97%	82%
incidents involved multiple victims (yes)	22%	13%
male share of offenders	98%	92%
female share of victims	73%	71%
average age gap	6.6 years	5.5 years
share of incidents with male offender and male victim*	27%	25%

\*From the SAAS dataset, 27% is the share of incidents with a male offender and male as the primary victim. The share of incidents with a male offender and any victim male was 29%.