

Evaluation of the Court-Referred Restorative Justice Pilot: Case Studies

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Introduction

Eighteen court-referred restorative justice conferences – 10 from Auckland and Waitakere and four from both Dunedin and Hamilton – were identified as potential case studies. In these, all participants and both facilitators were contacted for their views about the court-referred restorative justice conference. The conferences were chosen to reflect cultural sensitivity, the involvement of professionals, healing and reconciliation. They include conferences with offenders who had committed very serious as well as less serious offences; with a number of victims present as well as victims on their own; with a number of offenders present as well as offenders on their own; with recidivist offenders as well as first time offenders; with offenders and victims of different ethnicities as well as the same ethnicity; and with both male and female offenders and victims. Extracts from these case studies are referred to in the Report to demonstrate points being made. All names used in the case studies and other identifying features have been changed.

Case Study A

This is a case study of a cross-cultural restorative justice conference. It concerns the aggravated robbery of a petrol station late at night by a 17-year-old Cook Island Māori youth, a first offender, called Tama (who offended with two other gang members). The police laid charges of aggravated robbery and theft against Tama. The facilitators contacted both Tama and the victim in person and by telephone to discuss the possibility of having a restorative justice conference. The victim directly affected by the offence did not wish to attend the restorative conference, but the business manager, Allan, the person first on the scene after the offence occurred, was willing to attend. He was a New Zealand European. Tama's mother (Vaine), his father (Tane) and aunty (Kura) supported Tama at the conference. Allan came alone. Joe (the facilitator) and Jackie (the co-facilitator) represented, between them, Māori, Samoan, Niuean and European cultures. The case study demonstrates a number of factors associated with restorative justice conferences: the generosity and optimism of victims, the secondary victimisation of the families of offenders, and the potential for reintegration of offenders back into the community.

At the conference...

Joe opened the conference by welcoming those present, acknowledging the Pacific Island custom of beginning with a prayer or poem. He called for a volunteer and Kura offered to say a prayer. Joe noted that apologies for not attending the conference had been received from the police and the probation officer, and that Tama's lawyer was not going to attend. He then thanked everyone for attending, noting the purpose of the conference as being to put things right with the support of the offender's family. The ground-rules were explained and written on the whiteboard. He then asked Jackie to read the police summary of the events of that night.

Tama was asked firstly if he agreed with the police account and to tell those at the conference what happened. Tama agreed with the summary and spoke briefly about it. His father, Tane, requested more detail. At this time, Tama's minimal responses were incomprehensible due to his tears and sniffing. He said, 'I didn't really want to do it...when I looked at him...I just pushed him up against the till'. Encouraged to speak more by the facilitator, Tama elaborated: 'I knew I'd get caught. I just thought "Oh, what the hell!" I had just dropped my mechanics course at Polytech 'cos I had no money to get there'. A debate then ensued between Tama and Tane as to whether he was still attending Polytech and from whom he could have got money. When asked by Joe what he thought after the incident, Tama replied: 'I'd done too much. I didn't honestly think it was cool'. Tama's mother and aunty cried quietly.

While Jackie handed around tissues and sweets, Joe turned to Allan and invited him to talk about what happened from his perspective. He explained that the previous night he had had a staff emergency to deal with and was consequently short of sleep. As for the person directly affected by the offence, Patel, a recent immigrant from India, Allan said he had been really shaken up by the ordeal. He was very intimidated by three people robbing the service station. 'I sent him home, he didn't come to work for three days.' He told the conference that Patel was still suffering from the after-effects, which had compounded 'worse things' which had happened to him in India. 'I guess you don't know how much effect these things have on people. It puts on a lot of pressure.' In response to Joe asking him whether Patel had received special help, Allan said that Patel had

been visited a few times by Victim Support and that the petrol station company had a routine of care which they went through for robberies. He added that these were occurring with increasing frequency. 'We've had four in the last two weeks. I guess I just dread being called in to find someone with their head blown off'

Kura then spoke of the distress she knew Tama's parents felt and said that he was a good boy who had gone to church until very recently. 'I can understand their feelings. I cried for three days. But I believe in him...he will change. He will be a good boy in the future...it's just the wrong kids he is mixed up with.' Tama's tears and sniffing increased.

Joe invited Tane to speak. He said that the first thing he knew about the offence was the call which brought him home to find the police everywhere going through the whole house. He was still very angry about this. He didn't expect it to be anything to do with Tama. He described some of Tama's school achievements and said: 'I just could not believe it. I won't cry 'cos I'm still angry. – 'Cos he's a big boy'. Turning to Tama, he said: 'You need an education to make something of your life...I learned that at church'.

Vaine was asked how she felt. She stood up. 'It had to be someone else! But this big bunch of police said: "This is your son's confession." His whole life flashed through my mind. He'd been a prefect at intermediate, he won an essay competition, he got first prize in forms one and two, he was a prefect at high school, he was in a school production in form five, and he is a leader at the local cultural youth club! I still could not grasp it. I've had four children and was very strict with the first three – "use knives and forks", "eat quietly", "be in bed by nine". I thought I was the perfect mother! Then they ran away! With Tama, I've tried to show him I trusted him. Lord, where did I go wrong? Maybe I was too loose the second time! Then, when I first saw my son in jail, I went home and I prayed. I kept asking "where to from here?" I know we're poor, but we try. I haven't forgotten how to be positive! I won't excuse his behaviour, but I'm looking forward to a better future. I pray that one day we can meet the victim, perhaps through Allan.... I'm so sorry for what happened. But I can't make it right; it's done.'

Allan said he would pass her message on to Patel.

Joe acknowledged the family's view and beliefs, reiterating the importance of an apology to Patel, the victim of the robbery. Tama said: 'I'm truly sorry'. Allan responded with the words: 'It takes a great man, a brave man, to say "I'm sorry", especially since you looked me in the eyes when you said it'. There were more tears visible around the room. It was time for a cup of tea.

When the conference reconvened, the facilitator turned the focus on to what could be done to help repair the damage. Allan was invited to speak first. He pointed out that Patel would need to move on from the offence over time, that insurance had covered some of the loss, and that he was looking at the family in front of him and their needs. He looked directly at Tama. 'Others don't have the support that you have. I want to see you get into sport. I play rugby league. You're about the right size for league. I want you to go back to church. I would rather you got back on track. It's more important to our company, because we cannot keep on having robberies. I saw the hurt of your Mum. It was huge! You need to build bridges with your family.'

The costs involved in the offence were then discussed. According to Allan, the loss not covered by insurance was \$350. Talk then turned to the money, or the lack of it, for Tama's course. Kura noted that Tama needed to want to go back to his course, a comment followed up on by the facilitator. Joe's enquiry revealed that Tama really wanted to do something different, something involving music, where he could be paid at the same time. Tama's earnings were not going to cover his reparation and so Vaine asked if there was some kind of work

Tama could do instead. Allan responded that his league club sometimes had fundraising campaigns and that perhaps Tama could help out with one of those.

Joe then checked through the list of suggested outcomes on the whiteboard, inviting questions or comments. Items listed included that Tama should return to church; become involved in sports, possibly with Allan's help; work on his family relationships; pay reparation to the offence victim of \$350, and write a letter of apology to Patel. Tama's father commented that he was very pleased about the suggestion that Tama should approach Allan about joining the league team after sentencing. Some particulars were decided about who would contact who and when.

Vaine stood up again and thanked Allan for giving up his time to hear their mamas (pain). 'Somehow', she said, 'God had turned it around from a negative to a positive.' She thanked each person in the room for their contribution. This was followed by everyone else taking their turn to speak. Tama spoke: 'I knew it was a mistake – Yes, I will try my best. I didn't think much about it while I was doing it'.

The facilitator thanked all for coming along, and invited someone to close with a prayer. There was a general mingling among the people before they left.

After the conference...

Tama described his feelings when Allan first entered the conference room. 'I couldn't say "hello". I felt ashamed.' This changed to a positive feeling of having 'a lot of things going for me...Sometimes it takes something like this to show how much people love you'. Regarding the conference plan, Tama felt that both Allan and his family had put before him opportunities. He saw nothing bad about the plan. The best part of the conference for him was being able to tell Allan what was going on in his head at the time of the offence, and that he could apologise to Patel. Of restorative conferences in general, Tama said: 'I think they're real good. Always did, seeing as I sometimes had to mediate when I was a school prefect'. He was asked what he felt about recommending a restorative conference to others. 'It makes you feel a lot better...only if you are willing to do it and if you know you have done wrong.' He thought that participation in the conference would definitely stop him offending in the future. 'I knew that in the beginning. I knew I was going to get caught one day!'

Allan stated that his motivation for attending the conference was to inform Tama how many people had been affected by his offending - around 80. Having met Tama, he saw him as a soft guy who was easily led. He felt it was vital for Tama's family to keep him away from his co-offenders and their environment. Allan said that he felt comfortable at the beginning of the conference, unlike Patel, who would have felt anxious, particularly as there were no police officers present. Of the three conferences he had been to (the others were under the youth justice jurisdiction), he said that this was the best. However, he remained a little sceptical.

Allan said that he felt very sorry for Tama's mother. 'She was obviously trying really hard.' He concluded that if the court decided Tama should join a sports team, and not hang out with those guys, he would be too busy to reoffend. Allan felt involved in the process and expressed gratitude that he could have his say, especially to tell Tama how it had affected his life and work.

When asked whether or not he considered Tama had been made accountable for his offending, he replied that he took it like a man. In this respect, 'he was much ahead of his age. Half of me says, "if you do the crime you do the time"; the other half says "if he does the time he'd come out worse" '. Although Allan had gone to

the conference alone, he said he did not want a support person there. He commented that had the general manager been there, he would have made Tama feel like garbage and added: 'he didn't need to feel like that'. One thing that simply blew him away was to hear how much Tama had achieved at school. This was quite unlike Allan's personal experience. For Allan, other good features of the conference, along with the plan, were meeting Tama's parents and seeing how ashamed they were of their son's actions. When asked whether the conference had left him feeling safer, he responded with an emphatic, 'Way less safe, knowing someone like that could do that!'

Allan expressed disappointment that his cultural needs were not met. As the only European in the conference, he found that the occasional use of different languages was inappropriate for him. In fact, he found it quite alienating and intimidating. As he walked out at the end of the conference, however, he felt really good. It was only later that he thought about the other guys Tama hung out with. As gang members, they were a major concern.

Vaine said that she had first heard about restorative justice about one year previously when a colleague gave a presentation about it. The next time was when her son was 'locked up'. She appreciated the home visit from the facilitators before the conference and said that she understood the process to be an alternative to the mainstream, a process where people looked from within the person to outside the person. At the beginning of the conference, Vaine said that she felt apprehensive since she was not sure how it was going to turn out. She had not met everybody and hoped she would meet 'nice people and smiling faces'. This wish was granted, she said, when Joe and Jackie's great big smiles greeted her. Her anxieties changed to pleasure that her husband had had his say and Kura 'was allowed her piece'. But Vaine said that she felt for the person who was not there [the victim]. 'He's somebody's child.' She acknowledged that there was also much pain for her and her family. 'My son had not heard all that before. He's heard the questions before, but not how I really felt.'

Meeting the victim at first left Vaine relatively speechless. All she could say was 'sorry' and hope he had the compassion to forgive Tama. 'Because Tama had taken Tane's name (Tane is the adult version of Tama), Tane went with him [to the crime-scene]. And because I gave birth to him, he took me with him too. And then there's the rest of the family, his brothers and sisters. So, by forgiving Tama, Allan was forgiving the whole family.'

Asked if, during the conference, she felt ashamed of what Tama had done, she said she did not, although she acknowledged that she should feel that way. Her reason for this was that it did not reflect the real Tama. He had done so many good things in his 17 years, and she knew deep down that it was a 'passing thing'. Vaine commented favourably about the plan, noting that, because she was a Christian, it was God's way of working, through Allan. She looked forward to it becoming a reality. She felt that the suggestion to take up rugby league came at a good time for Tama who had already been considering what sport to take up which would utilise his strength. Since the conference, Tama had already started doing some exercises. Vaine liked the way the conference began and ended with a prayer, and the way that refreshments were offered. These met her cultural needs. She also felt that the friendliness of the facilitators helped her. Due to what Allan had said at the end of the conference, there was a sense of closeness to him. It was as if he was one of the friends who surrounded her as she left.

Tane still could not properly understand why Tama had committed the offence. He believed his son did not mix with those types of people. He wondered whether TV and videos had influenced him to 'try it out without understanding the impact of his actions'. He also thought it was a mistake to have gone away for two weeks leaving Tama at home by himself.

The conference helped Tane in a number of ways. Firstly, it helped him to understand more, by showing what they [the whole family and the victim] were going through, how they were affected. 'My heart goes out to the victim and what he went through and how he suffered.' Secondly, it helped him to deal with the embarrassment and hurt of what his boy had done. Sometimes, he looked at his son and tears came to his eyes. 'I try not to show them.' As a boy, Tane said he had been abused, and his grandmother subsequently brought him up. He had done things wrong, but nothing like this. That was why he was 'extra protective' of his children. 'I've never done anything wrong to them and have done the best I can for them.' Thirdly, the conference gave them another way of dealing with the situation they found themselves in. Leading up to it, there had been times when he felt like leaving home. It broke his heart. However, he recognised that it was his responsibility to try and build that trust again. Fourthly, the conference helped him to talk to his son. 'He'll never let me and Vaine go back into the courthouse again!'

Kura regarded Tama and his family as 'sort of like family' to her. Tama visited her regularly, but since the offending he had been shy when visiting her, unlike his former relaxed self. She felt that Tama was mixing with the wrong people and that this had changed him. When asked for her impressions of the conference, Kura said that she could see warmth and understanding which was like seeing 'the other people's understanding of the hurt in us'. Believing in God, she felt that the Spirit was there and that she could 'feel Allan's understanding of Tama's mother's hurt'. She thought that attending the conference had helped Tama because, during the conference, she saw the Tama she knew. Another good aspect of the conference was that Tama's father made it clear that he wanted to have a better relationship with his son.

Joe saw his role as ensuring that things ran smoothly so that people were able to tell each other how they felt honestly with the support of their families. It was especially important to him that victims were able to relate the effects of their trauma 'in a free way'. He was concerned that Patel, who had actually experienced the stress and trauma, was not at the conference. However, he understood from his follow-up interview with him that Patel was happy that Allan had represented him.

Joe wondered whether or not the plan was going to work. 'Tama cannot do it without the support of the family. He needed encouragement and praise, support from his community. If he doesn't get that then he goes back to the same old thing.' He thought the conference had been a success. 'It was good for Tama to express his emotions, to cry, to admit the offence, and to say he was sorry. It was also beneficial for the family since they might not have had an opportunity to talk about these things at home. It was important for them to listen to what their son had done, and how he had affected others.' He felt that Allan 'coming on board' was really good, especially his understanding and offer of assistance to Tama. Joe also liked the way Allan had said he understood how Tama felt, having left school himself at an early age. However, Joe had one remaining concern after the conference - the follow-up of the conference plan.

Jackie was asked if she had any special concerns at the pre-conference stage. Her response focused on Tama and Patel. Tama presented her with no concerns as she found him forthcoming, respectful and, although quite young, a person with 'something old about him. Even though he'd done something heinous, there was a foundation of boundaries there that shone through.' He showed that he had considered and remembered the information he had been given about restorative justice processes. Contacting Patel had presented problems because of his hours of work.

She thought the conference was 'quite remarkable' in a number of ways. Firstly, Allan's support to Tama and his family was beyond her previous experience. She said, 'I've never heard that kind of support from a victim before, especially cross-cultural. There was no hesitation on Allan's part. He was direct, confident, well

prepared, and represented Patel very well. He was remarkable in the way he supported that family.’ She felt Tama had showed that he valued the opportunity to apologise to both Patel and to his family.

After the sentence...

In sentencing Tama, the judge acknowledged and referred to the contents of the conference report. He stressed Tama’s positive qualities, his youth, his remorse, the fact this was a ‘one-off’ incident, and his supportive family. He saw Tama’s motivation to change as high and his risk of reoffending as low. He passed a sentence of two years imprisonment suspended for two years, 12 months supervision with a condition of undertaking a ‘straight thinking’ programme, and reparation of \$350.

Allan said that he had no idea whether or not the conference report had influenced Tama’s sentence. However, his perception of the criminal justice system was now far more positive after participating in the conference. ‘I’m glad something happened to him, but something too harsh would have led to reoffending. At least he might have a chance now.’ Interestingly, Allan’s views of restorative conferences moved from cautious scepticism to a feeling that they were good. It was a process he would ‘definitely’ recommend to others.

Although Tama was afraid that he might be sentenced to a term of imprisonment, he was pretty satisfied with the judge’s sentence. However, he thought that the straight thinking programme might conflict with his employment. ‘Where did that come from?’, he asked. In a subsequent interview, Tama said that he had been assessed as unsuitable for the straight thinking programme. Consequently, to fulfil the court’s requirement that he did a course, he planned to do a 12-month music course starting in the New Year. He said that he was looking forward to it.

Tama felt positively about the criminal justice system: ‘I’ve always been positive about it’. He added, ‘It’s good. You get to see things from their point of view as well as explain to them why you done it’. His views about restorative conferences remained favourable, and he said he would still recommend them. ‘You have to be positive about it, eh?’ When asked again if participating in the conference would stop him offending, he said that he felt that it would. ‘It was great. It made me realise what I’ve got going for me.’ Tama was asked if he had followed up the invitation to join the league team. He said he had not because he had lost the telephone number. The interviewer provided it to him.

Jackie felt that the sentencing outcome was a very good start for Tama since he could easily have ended up in prison. ‘If he’s got that much of a headstart, he’ll be one of those who can really turn his life around... especially if he can avoid drugs, get into a positive environment and find good peers.’ She sincerely hoped he could maintain the commitments he made at the conference to the benefit of himself, his family and Allan.

Twelve months later...

Tama remembered the conference well. The thing he remembered most was meeting Allan and hearing how he felt about Tama’s offending. He said that he had fulfilled everything that had been agreed to at the conference, was pretty satisfied with the conference and the conference agreement and was very satisfied with the sentence. Tama said that he had not reoffended and that the conference had ‘most probably’ contributed to this. Tama also said that, as a result of the conference, he now felt more positive about the criminal justice system and described restorative justice conferences as ‘great’.

Allan remained relatively satisfied with the conference and the plan, describing them as 'really good'. However, he said he did not know whether or not Tama had paid the reparation agreed to or had carried out the other agreements reached. Allan added that he had not thought about the offence since then and that it was now all behind him. His views of the criminal justice system had not changed as a result of the conference, but he confirmed that he still thought that conferences were good. He added that he would definitely recommend them to others and would definitely go to another if he were a victim again.

Case Study B

This case study involved two friends, Brian and Tim, who became estranged after Brian used an EFTPOS card belonging to Tim and withdrew \$240 from the account in two transactions. Brian said when he found his friend's EFTPOS card sitting on the bar temptation overcame him. He remembered the pin number, because Tim had told him what it was one day when they were drinking. He withdrew the sum of \$200 from an EFTPOS machine and then made a second withdrawal of \$40 at a local dairy. When Tim realised his card was missing, he reported it to the police. Their enquiries resulted in Brian being charged with taking and using a document. Both men were in their forties. Brian had not previously appeared in court. The difficulty of ensuring a process that is safe for all participants, including the facilitators, is highlighted in this case study, especially where the victim is angry and has consumed alcohol. Mary was lead facilitator and Ray was co-facilitator.

At the conference...

The conference was to be the first meeting between Brian and Tim since the offending was discovered. As requested by the facilitator, Brian arrived at the conference around fifteen minutes early. He was plainly nervous. Tim arrived five minutes late. The atmosphere then became highly charged. Tim stood just inside the door with his legs apart staring at the occupants in the room. Mary was outside the room making Brian a coffee. He stared at the evaluator who rose and introduced herself, explaining her reason for being there. She extended her hand, which Tim shook, slowly giving her a half smile of acceptance. The evaluator sat down. Tim then turned to Ray who attempted to put him at ease. This turned out to be more difficult than expected. It became clear that Tim had been drinking alcohol, sufficient to make him slightly unsteady on his feet as he moved around the room. He admitted to Ray that he had had 'a couple of beers'.

Mary returned. She greeted Tim and asked him to be seated. He considered this for a moment, and then appeared ready to leave. After what seemed like a few moments, Tim seated himself opposite the co-facilitator and slightly to the side of Brian. Mary seemed surprised to see him angry.

Mary handed Brian his coffee and sat down. She welcomed everybody, acknowledging that it was difficult for Brian and Tim to face each other after what had happened. She invited Tim to start. He declined. 'I want Brian to start', he said in no uncertain terms. The facilitator was faced with a difficult task: trying to lead the conference when Tim's behaviour was clearly challenging her. She then asked Brian to start. Before he could comment, she asked Ray to read the police Summary of Facts. After it was read out she asked both men if it was correct. Both agreed that it was (although later they disagreed on the circumstances which had made the offence possible).

Once again, Mary asked Brian to explain what happened. Brian started by trying to hand over a roll of folded money to Tim. Tim responded with, 'Not just now'. Brian then explained, saying he was in the bar when he found the EFTPOS card just lying there. He went on to say that he didn't know why he took it; he'd never done anything wrong before. 'I feel totally ashamed', he finished.

'How did you get the pin number?' Mary asked. 'Tim gave it to me.' 'I didn't! Don't tell f.....g shit!' was Tim's response. Brian persisted. 'You did, Tim.' Tim responded, 'I wouldn't give you the pin number. I would say it in court. I wouldn't even give my pin number to my wife! All I want is for you to go to jail! My gut feeling is that you've done this many times before.'

Mary asked Tim to tell Brian how he felt when he discovered the loss of his card. Tim replied, 'All I could do was cancel my cards - \$10 per card and 5 hours at \$35 per hour! I needed to know who the hell had cashed my card in. You're so lucky I didn't come around and kill you! The deceit was so bad for me 'cos we'd got on so well together. I'd have lent you money if you'd asked. My daughter did the same thing and got five months in jail. I saw her handcuffed! \$240! It's not the money that bothers me. It's the fact that it's happened. It was a hassle telling the police and everything. I had several cards with the same pin number. I've had the same pin for a number of years! I could have loaned you the money. Don't steal money! How bad is that, Brian?'

Some discussion ensued on whether Brian had stolen the card or had been given it, and what he had done after he had the card in his possession. During this time, Tim became more hostile. 'Why aren't you in jail now?' he asked. 'My daughter did less than that – five months in prison! That's why I'm bitter!' Brian seemed to deny what Tim was saying. This made Tim even angrier. 'Bullshit!' he said. 'Don't make up excuses!' Brian tried again to speak, stating he was trying to say he did not know Tim's daughter had been in jail.

Mary tried to bring things under control. 'Tim, you wanted to talk about trust.' Tim commented that there was none. He had trusted Brian, and he repeated his suggestion that he could have lent him the money if necessary. Mary asked Brian if he had anything to say. Brian stated, 'I've never ever done anything like this before. Here's his \$200 – I'd like him to accept it.' Tim asked, 'Who decides, me or the court?' Mary explained it was up to the court to decide the outcome. 'We'd say it's been paid in the report to the court. It's up to the judge.'

'You were saying I could claim my hours. \$10 x 2. Having said that I'm not sure it's all his fault, if I let him know my pin number.' Mary picked up on Tim's admission 'That's good that you're being responsible there.' A discussion then arose on the amount taken and the merits of Tim accepting the money or leaving it to the court. Tim said, 'I appreciate Brian offering the money back, but I think I should leave it to the court'. Mary thanked him, acknowledging it was his decision.

Brian pointed out that he had been asked to return the money. The idea came from the judge to his lawyer. The facilitators checked the police Summary of Facts. Mary quoted, 'It says reparation of \$240 is sought'. Ray enquired whether or not Brian had been instructed by the court to pay reparation. Brian explained he was to give the money to Tim or to his lawyer to give to Tim. Tim then interjected, 'I'd prefer you gave it to the police or the lawyer.' It was agreed Brian would give the money to his lawyer the next day.

Mary offered each participant an opportunity to add anything they wished. Brian repeated his apology, and Tim responded that what he felt would 'sound rough'. Mary validated this by saying 'It's your feelings.' Tim told the conference how he had not wanted to come. 'If I had sorted it out for myself, I wouldn't have been here', he said. Mary asked if there was anything else. Ray prompted Tim, 'You said there had been some differences in the account of the offence'.

More discussion ensued about the time, place and circumstances of the offending. At one stage, Tim told Brian 'Don't bullshit me!'. Mary asked Tim to let Brian have his say and then Tim could reply. Tim asked, 'Why

am I here? This is not a court hearing. I'm not interested. Let the guy who stole from me go to jail.' Mary explained that he was not there to justify himself.

Tim replied, 'I'm getting done here! I need victim support'. Tim became increasingly agitated. He was concerned everything was getting written down. Mary said to him, 'You do have a choice here. You don't have to go to court. This allows you to have your say in court. You don't have to justify yourself. Please don't feel....' Tim interrupted. 'I feel like I'm the centre of attention here and I don't like it!' After a few more angry words, Tim complained that he hadn't been allowed to bring a witness. It was explained to him that the facilitators had consulted the coordinator before declining this request.

This failed to placate him. He repeated his concerns, but at the same time acknowledged he knew he sounded aggressive. He was told again he could tell the court what he wanted to happen to Brian. 'Right – jail', he responded. With that he stood up saying, 'I'll just go out and have a cigarette'. He left the room and went outside. Mary offered Brian another coffee.

Both facilitators remained with Brian initially, checking whether or not he was all right. Somewhat shell-shocked, Brian asked, 'Does that mean I have to go to jail?' They told him, 'No'. Brian asked 'What do I do with the money now?' The facilitators discussed with him for about ten minutes the implications of Tim's stance about not accepting the money. Mary then stood up saying she would check whether or not Tim wanted a coffee.

After a 20-minute break, the conference reconvened. Mary summarised the discussion they had had with Brian, explaining that they had suggested to Brian that he bring the money with him to give to Tim at the conference. Tim queried why he had not received any correspondence about this advice. No-one told him the money was on its way. He said he thought the court would have advised him if it had made such a decision. Despite the facilitators repeating their explanation, Tim was not happy. His last word was that he wanted the money paid through Brian's lawyer to the police who could then give it to him. This became the conference plan outlined in the report for the court.

After the conference...

Brian described his feelings at the end of the conference as 'shattered'. He went on: 'I was a bit disappointed. Alcohol should not have been involved. The threat to kill should not have been made...He wasn't intoxicated, but he wasn't far off either!' He said that he found the whole experience shocking. 'It would put anyone off.' He described how he had gone over it repeatedly in his mind. The conclusion he always came to was that the conference 'was ruined because Tim was intoxicated'. Despite the difficult situation, Brian felt that the facilitators had tried to make him as comfortable as possible with what was happening.

When asked whether he was too scared to say what he really felt, Brian responded, 'It all boils down to how he was and the threatening words he used. He didn't want to be there. He made that quite clear. It didn't give me a chance to express what I wanted to.' He thought there should be some kind of agreement that no one would appear at a conference intoxicated or make threats to kill. As a result of the dynamics at the conference, Brian did not feel he had been able to make up for his wrongdoing. Brian commented that Tim wasn't willing to listen. 'He brought up about his daughter's situation and he kept on talking himself. I think he heard me say "I'm really sorry" because Mary asked him to let me talk.' Brian did not consider that Tim had accepted his apology.

In hindsight, Brian wished he had had more support at the conference. Once he realised the degree of Tim's intoxication, and especially after hearing the threat to kill, he 'crawled into a shell'. He commented, 'I was waiting for him to leap up and try and hit me'. The good part of the conference was 'when the facilitator stepped in to try and get some sense out of Tim'. Notwithstanding these difficulties, Brian was pleased he took part in the process. 'I'm just pleased I turned up. At least someone tried to let me have a say...which I thought was pleasing.' He felt Tim had been determined to behave the way he did, to turn up intoxicated and to threaten him. 'No-one was going to stop him, no matter what!'

He would recommend a restorative justice conference to others. 'Just because I had a bad one, it doesn't mean they'll all be the same.' Brian was asked if the conference would stop him offending in the future. 'Definitely. I'll never do it again, never, under any circumstances, never, and that I can swear on!'

Tim was not interviewed until after Brian had been sentenced. He explained that the offence hadn't hurt him much in monetary terms, rather it was the type of offence it was - a breach of friendship and trust. He knew Brian, and Brian had taken advantage of that. He said the offence had had maximum impact on him and he was really angry about it. He also said he was told he could do and say what he liked at the conference. At the beginning, 'I didn't want to see him. I didn't feel too good looking at him and tried not to eyeball him'. At the end, he felt just the same. He considered that Brian had had too much to say. 'Yeah, too much of the same thing, trying to snivel his way out of it!' However, he felt Brian had been able to make up for what he had done because he had the money in his hand, '...and I never took it', he added. He did not accept Brian's apology either. Tim did not believe that Brian was truly sorry for what he had done. He was 'only sorry he got caught'. He did not consider an agreement had been reached and explained he had refused to take the money offered by Brian in case he had stolen it from someone else.

For Tim, the best part of the conference was that he could have his say and could tell Brian what he thought of him. He said the worst part was that Brian kept trying to apologise to him. He felt Mary and Ray's facilitation was very good, but he said he would not go to a conference again. Tim then modified that to 'not in a hurry...and depending on how he was a victim'.

When asked to comment on her assessment of the success of the conference Mary said that she did not consider it had been very successful. 'I was not sure how much more I could have brought out without counselling Tim. In my follow-up call to him, he said he was pleased he'd fronted up and that his wish for Brian to be jailed would be reported to the judge. I thought Tim having his say about jail might influence things. I had pointed out beforehand that it was up to the judge. We (Ray and Mary) both had the impression Tim was calling the shots. He wanted to use the conference as a weapon for a second case. Given it was my first case as a facilitator; I found it difficult to decide how much to let it go. I was prepared to tolerate a few "f...s".'

When asked about Tim's threats to kill Brian, Mary commented, 'Because I'd seen him so angry before and he had calmed down, I didn't feel he was likely to get up and become violent towards Brian'. Of Tim's concerns about 'being on trial', she said she explained to him that he was the important one at the conference. She added that one never knows what past events have happened and where they might lead.

Tim's alcohol consumption was discussed. Mary suspected he had done that for 'Dutch courage'. 'It may have influenced the situation.' But Tim's behaviour at the conference could also have been an accumulation of resentment about not being allowed to bring a witness. After the conference the facilitators considered whether Tim had an alcohol problem.

The conference had raised a number of questions for her; particularly how much time should be spent pre-conference drawing out things to make them better before the conference. She did not feel it was appropriate at the conference itself to say to Tim, 'Perhaps you're angry about Brian because of what happened to your daughter'. She concluded with, 'As I said to Ray, "I survived it"'.

Ray commented there was no reason to believe at the pre-conference meeting that Tim would come to the conference after a trip to the pub. However, in hindsight, the Summary of Facts might have provided a clue. Of his role as co-facilitator, Ray said this was a difficult transition for him, not being in charge. It was his first conference as a co-facilitator, the first conference at which he was responsible for note taking. If he had been lead facilitator, he would have done things quite differently. Instead of moving into the conference straight away, as Tim was striding around, Ray would have acknowledged where he was at that time and explored this further with him. He would not have made him sit down. He commented that Tim was really reactive at the beginning stages. From then on, it went the wrong way. He became more wound up rather than wound down. No reconciliation occurred. If I had interrupted the conference, it would have undermined Mary's facilitation. If I had, I might have taken over. If she'd asked for help during the conference, I would have given it 100%.... She was shaking when she brought in the cup of coffee. I knew she was under pressure. But I wanted her to learn from the experience and she needed the room to do that. Knowing Mary, she wouldn't ask me for help. If I had stepped in more, it might have helped.'

Ray considered they had had enough control of the conference. If things had gone out of control, we had arranged [a contingency plan] for that. 'There is a fine line between abusive behaviour and expressing hurt and emotion. Brian could understand the depth of Tim's feelings when Tim said, "You're lucky I didn't come around and kill you".' Remarking on the disagreement on the facts relating to the offending, Ray said, 'It was not clear what happened. Both had different stories. If it had been explored at the beginning [pre-conference], Tim would not have felt he was being cross-examined.'

Ray rated the success of the conference as 'very low' in terms of the outcome, healing and reconciliation. He said Mary put this down to Tim's emotional state. Ray, on the other hand, felt it was a matter of the facilitator developing skills. For him, the only concern remaining was what he would do in the same situation and whether or not the conference needed to be called off. He said he would have started off with an open discussion about this. However, he added that, if they had done this, Tim might not have come to a reconvened conference. He commented, 'If you don't know something, you can't change it. I felt sad about the way it ended. Brian was shattered and scared. Tim went out very angry, still'.

After sentencing...

The judge in sentencing Brian referred to the planned and premeditated nature of the offence, but also to the fact that Brian had no previous convictions for dishonesty, had expressed remorse, had written a letter of apology, had taken part in a 'difficult' restorative justice conference and that the offence was out of character. Brian was convicted and ordered to pay a fine of \$400 and court costs of \$130. He had already paid the reparation to Tim through his lawyer.

Brian was not happy with the sentence and considered it very unfair. He felt the reason for this was that not all the story had been told in the conference report. He referred to Tim's admission of partial responsibility regarding the pin number. Had this been disclosed in the report, the judge told Brian's lawyer that Brian would not have got a conviction. However, the experience did not alter his previous views of the criminal justice

system. He regarded restorative justice conferences as good 'as long as they report everything that was said. I was lucky I didn't go to jail'.

Tim was asked if he thought the conference report had had an effect on Brian's sentence. 'That's a hard one 'cos I'm not sure what these offences get. I wanted him to go to jail, 'cos my daughter did for doing less than Brian did. I've got a bit of a grudge I suppose. But it's not Brian's fault.' However, Tim did say that he was relatively satisfied with the sentence (he rated it as '4' in a scale where 1 was 'very dissatisfied' and 7 was 'very satisfied'). Overall, his views of the criminal justice system were unchanged by the experience of the restorative conference.

Mary did not know what Brian's sentence was when she was contacted after his sentence. When informed, all things considered she felt it was a 'pretty fair sentence'.

Twelve months later...

Brian said that he was very dissatisfied with the conference overall saying that he had lost his career and now had a criminal record. He was particularly unhappy with the conference report and claimed that there were a number of inaccuracies: 'the truth wasn't told. It's as simple as that'. He added: 'the facilitators didn't do their job properly. My lawyer was stunned'. He also complained about the fact that the victim was intoxicated during the conference: 'why was he allowed to be there in an intoxicated state?'. Brian also totally disagreed that conferences were mainly designed to benefit offenders: 'what they do is write down what they [victims] want.' Brian was very dissatisfied with the judge's sentence and thought that him paying some reparation and a fine resulting in a discharge would have been better. He said that he had not reoffended since the conference but he did not feel that the conference had contributed to this: 'it was a spur of the moment thing'. As a result of participating, Brian said that he now felt more negative about the criminal justice system: 'if people can't tell the truth of what's said in a conference, why have it?'. He also said that he would not attend another without discussing it with his lawyer. He would not recommend one to others.

Tim found the conference a little hard to remember but said that the thing he remembered most was 'the time we sat there face to face'. He added: 'the best thing was having my say'. Tim was neither satisfied nor dissatisfied with the conference overall and with the conference plan. He said, however, that he felt that conferences were mainly designed to benefit offenders and not victims. He explained this by saying that 'he could have made out that he was sorry but deep down he wasn't'. The reparation agreed to at the conference was paid in full, but Tim said he was pretty dissatisfied with the judge's sentence. He felt that 5 months imprisonment would have been better. He hadn't thought about the offence since the conference and felt that it was now all behind him because he had got all the money back. He felt much the same as before about the criminal justice system. However, he would still recommend restorative justice conferences to others and would attend another himself if the situation warranted it.

Case Study C

Tony, the offender, was a Māori man in his fifties at the time of the offence - theft from his employers of a sum exceeding \$5,500. Tony had responsibility for banking money he had collected for his employers (Janet and Jeremy) and, over a few weeks, he had not done so. Tony's lawyer, Richard, suggested an adjournment at the District Court to enable the possibility of a restorative justice conference to be explored. Both Tony and Janet agreed to participate though Janet agreed somewhat reluctantly. Jeremy decided not to attend the conference. Janet brought her husband, Paul, with her as her support person. Tony's lawyer accompanied him at the conference. This case study describes a conference which was attended by a lawyer. It also describes the potentially negative effect which the victim's anger can have on the conference and how the victim's attitudes can change both during the conference and afterwards. Deborah (lead facilitator) and Meryl (co-facilitator) facilitated the conference.

At the conference...

Everyone was welcomed upon their arrival at the conference venue and introduced. Janet and Paul were the last to be seated and appeared quite uncomfortable in Tony's presence. Deborah started off proceedings by giving a brief overview of whom she had invited to attend, adding that the probation officer had declined. She acknowledged the presence of Tony's lawyer, who, she said, 'was being paid to say nothing', but who could advise and take a 'back-seat role'. She explained that the process enabled victims to say 'fairly much what was going on in their minds' towards getting their needs met, and enabled the offender to take responsibility for his offending. She made it clear that the conference participants did not make recommendations but that the judge would take their report into account. She stressed that the conference was intended to be a respectful and safe environment, and invited questions. There were none.

Deborah noted that prior to the conference there had been some discussion of whether or not to start with a prayer or the like, but the consensus had been not to. Meryl read the police Summary of Facts, followed by Deborah citing a private reparation agreement made with Jeremy. This required Tony to pay back the stolen money at \$100 per week. It had been prepared for presentation to the court.

Deborah invited Janet to speak. Janet thought the conference should begin with Jeremy's letter. Deborah took this up, describing the details of her visit to Jeremy during the preparation phase. He told her about the reparation agreement made with Tony which meant he had no need to attend. He wanted the conference to note, however, that he was very disappointed with Tony and that he wanted some consequences to follow if Tony reneged on the agreement. Furthermore, Tony was, under no circumstances, to go back to the business. Janet advised the conference participants that she had learned from Jeremy, on the morning of the conference, that no reparation had yet been paid. She also said that, if the conditions of the agreement were not met, Jeremy intended to take the matter to the civil court. At this point, Deborah recorded 'Reparation' on the whiteboard. Janet went on: 'I have already got my anger out, on you ladies' (meaning the two facilitators), who laughed. To Tony, she said: 'We knew each other well. You planned this and let me down badly. For two weeks, I was walking around like a stunned mullet! I don't want to hear excuses, sob stories about gamblers' anonymous.

The impact of your offending has put us back about \$5,600 - a month's worth of business! We have struggled to pay bills.... All I want is the money back, and Tony to have a conscience... and I want justice to be seen to be done! As soon as possible! I don't want to see his face again, and I don't want his apology 'cos it doesn't cut any ice with me!'

Tony looked at her, faced with a dilemma: 'What I've got to say are basically excuses. I can't apologise because she won't accept it... I dunno...' After a long pause, Deborah asked Janet's husband, Paul, if he had anything to say while Tony considered how to respond to Janet. Paul responded simply, 'It's said'. Deborah semi-joked about the conference being too short. Janet thought of more to say. 'It's the business that has been affected, not me personally.'

Deborah asked Janet how Tony's actions had affected her, given her insistence that Tony should have consequences for what he had done. 'It does. I think about it all the time.' Deborah reminded Janet that she had had lots of questions. 'Why did you do it?' she asked Tony. Deborah looked at the offender, 'Tony?'. Before he could reply, Janet asked another question: 'How did you think you were going to get away with it?'. Deborah looked to Tony for a response. Hesitatingly, Tony said, 'It's hard to put into words'. Deborah asked whether or not he had any words to describe how he was feeling now. He said 'No'.

As that line of dialogue appeared to be drying up, Deborah suggested the conference participants look at reparation. Tony advised Janet that the repayment had been arranged at the bank and that he'd provided them with his bank account number. He offered to go to the bank the next working day to find out why it hadn't been paid. Deborah asked if Tony had thought of other ways of keeping the agreement, such as having deductions directly from his wages? To Deborah's question, 'Would that be better', Tony replied: 'Yes'. Deborah continued: 'It would require an agreement from your employer. You work for a freight firm, don't you?'. 'Yeah, I work for Jones Freight Ltd. I will see my boss on Monday morning and have it done before my court date', he volunteered.

Janet thought of something else: 'So long as he keeps his job'. The likelihood of a conviction affecting Tony's employment then became the focus of discussion: 'What's going to happen when they find out that you're a thief?' Janet demanded. It was established that Jones Freight Ltd had a practice of doing police checks every 12 months. This was next due in June of the following year. Janet asked how likely it was that Tony would be fired. Richard, Tony's lawyer, noted that the requirement to disclose offences and the consequences of not doing so was likely to be in his contract. He went on to say that Tony was, therefore, likely to lose his job, unless an extremely strong representation about Tony making reparation payments was made to the court.

Tony advised those present that he had an application in progress for another job if he did lose his job at the freight company. Paul checked with Tony, 'So you're saying that if you're offered a job, you'd take it'. 'Better money', advised Tony. Participants then focussed on the time it would take to repay the money at the rate of \$150 per week. It would take around 45 to 46 weeks. Janet checked whether a job change would affect the direct payments from Tony's wages. Tony did not see this as a problem.

Deborah then pointed out: 'The crux of the matter is follow-up, guarantees. Where do we go if the money is not lodged in Janet and Jeremy's business account? What does she do? Does she ring your employer?'. Tony undertook to make the necessary arrangements on Monday and for everything to be in place in the account on Thursday, his usual payday. 'If it doesn't, what then?' Deborah asked. 'There are two possibilities - Tony might not follow through or the process might not work.'

Janet responded: 'I've been through this before. I've had to get the police involved [with another matter]. I am not sure I want to chase his employer, or whether we just say if he defaults once, we go to civil court!'. Tony then said that the probation officer was going to recommend reparation. He had said to the probation officer that it was already agreed to in the private agreement, but I don't think it sunk in.

Deborah asked Tony: 'Are you comfortable about the employer knowing about the reason for the payments, knowing a third chance is unlikely to happen?'. Tony's lawyer suggested it would be worthwhile checking the bank account numbers and other arrangements. Everyone agreed. Deborah commented that these things could sometimes take time and asked whether or not it would be possible for Tony to have a week's grace before civil action was undertaken? Janet was unwilling to accept this idea initially, commenting that the Internet banking of today was 'basically a five minute job'. However, if no deposit was made the coming Thursday, she said that she was prepared to give a week's leeway. She suggested giving the account number to the lawyer, as 'the least I see of Tony the better!'. Richard, mindful of his non-participating status in the conference, gave her his business card, stating: 'I'm not participating; I'm just giving the number to you'.

'So everyone is satisfied?' asked Deborah. Meryl suggested they look at the scenario if Tony did lose his job. Tony offered to notify Jeremy and Janet of any employment changes. Janet responded that she would prefer this to be in writing. Tony agreed. Deborah drew their attention to the specifics of where the deposit should be made, how much, and how often. Janet once again required the arrangement to be in writing, even if there was potential for the arrangement to change over time, as suggested by Deborah. Deborah confirmed her understanding of Janet's position. She checked how Tony felt about it. He made no comment. She asked if he wanted to take a few minutes out to talk to his lawyer. Richard replied: 'No. I think it's all sorted out. The participants might like to consider reparation if Tony gets a prison sentence. He may need some kind of agreement whereby, if he goes to prison, he starts paying reparation after he's been released.' Janet's husband responded to this: 'Yes, that's a bit grim for us. Is there anything else we should do?'. Richard told him there was. 'If you stated the reality of the effect on you of a term of imprisonment in a letter to the court, it might be considered at sentencing.'

It was Janet's turn to face a dilemma. She said she would like Tony to go to jail, and yet 'the practical side of her' told her she wanted her money back. Her husband agreed. They thought about it for a few moments, finally agreeing to write to the court. Richard suggested they could perhaps fax this to him. It was agreed they would provide this letter at the same time that they gave him their bank account details.

Deborah presented them with another scenario to consider - what if Tony is imprisoned? It is possible that Tony would not get a job straight away, and would have to receive a benefit. What was the minimum weekly amount they would accept from him? \$20? Janet and Paul agreed that this would be satisfactory, pointing out, however, that as soon as Tony got a job he had to increase the payments to \$150 per week. This was agreed, along with an undertaking by Tony that he would keep Janet informed.

Deborah asked if there was anything else anyone wanted to say. She was about to close the conference when Richard, somewhat apologetically, raised another issue. 'One part of Tony's submission is his addiction to gambling.' Janet would have none of this. 'Gambling is just excuses! That's what the previous freight manager did!' Deborah asked 'Not interested?'. 'I've dealt with this before for 18 months with the previous manager!' was Janet's terse reply.

Paul suggested he might like to charge interest for the money that had been stolen. Deborah asked if this was something he wanted Tony to address. He responded in the negative, stating his awareness of the need to be

realistic. 'Tony?' asked Deborah. Tony replied: 'If they're being charged interest, just add it to the amount I owe them'. Interest rates became a focus then. Paul asked if he could take a break to discuss this with Janet.

After a 15-minute break, the couple returned into the circle. 'We won't charge interest because that would decrease the likelihood of our getting the money back', he informed everyone. Richard acknowledged the victims' generosity, and Tony thanked them. It seemed everything that needed to be addressed had been. The conference ended when Janet asked the question, 'How do we get informed regarding Tony's sentence?'. Deborah replied that she would inform them.

After the conference...

Tony thought that the conference was trying to help him to become aware of the impact he had had on the victims and to let them, the victims, say how they felt about things. At the beginning of the conference, he said he had felt ashamed of what he had done to them, and he knew that it was going to be hard facing Janet. 'I expected her to walk up to me and give me a slap on the face! I know when Janet gets wild, she's a force to be reckoned with'. He felt 'a bit more relieved' at the end of the conference because Janet had vented her anger out on him. Janet refusing to hear any excuses or reasons did not help him explain why the offence had happened, however.

Tony did not think he had been able to make up for what he had done. 'It's not something you can put into words', he said. 'You can't make up for anything when you do things like that, other than pay back what you have taken, and take your punishment. I know I've done a stupid thing.' He did not apologise to Janet, as she wasn't going to accept an apology. He commented that he understood where she was coming from. Janet made him feel he was a really bad person, especially when she called him a thief, and told him he had planned the offence. 'That didn't sit too well', he added. He found having his lawyer there helpful, but he would also have liked his wife to attend. She was unable to come at the last minute.

Tony considered the plan was better than he expected. He was surprised when they said they didn't want interest on their money. His lawyer had prepared him to ask about interest rates. All in all, he was pretty satisfied with the conference. The best parts for him were giving Janet an opportunity to say how she felt, to vent her feelings, and for him to have an opportunity to put things right. He disliked being called a thief, as if he had planned the offence when he hadn't. He reckoned that restorative justice conferences were 'pretty good' because they could be held for non-violent offending. He did not recommend the process for those who rape or do home invasions. 'Those people are just dogs!' he stated.

Janet said she had gone to the conference reluctantly. She was under the impression it made a little difference to the outcome of Tony's sentence, and she did want to see him. Before the conference, she had been told that she could perhaps get some money paid back. She felt the conference was trying to establish 'some rules and guidelines for everyone to play by' where everything was 'defined'. Initially, she felt 'pissed off', thinking it would be a waste of time. Meeting Tony at the beginning was 'alright' although she thought he was just a 'wanker'. Her logical self kept saying 'this guy's nothing to worry about'; her emotional self wanted to 'thump him'. She said she felt disgusted and betrayed.

At the end of the conference, however, she felt it had not been a waste of time. 'I knew all the facts – if he doesn't go to jail, he'll pay; if he does, we have systems in place so we'll get paid later.' She felt no differently about the offender. Janet felt very well prepared for the conference, knowing what she could say and how she could say it. When asked if Tony had been able to make up for what he did she commented: 'When I get all

the money in the bank, he may have, say 10%!'. She felt the conference had made him partly accountable for his offending, as he had not yet been sentenced. She did not believe he had any remorse. She acknowledged that he had not apologised to her because she had asked him not to, indicating that he was in no way uncertain about how she felt. She believed he was not sorry because he did not look at her; he kept his head down.

Having her husband at the conference was helpful. 'It affects him also – 'cos he's had to put up with my ravings.' She was very satisfied with the plan because they covered all eventualities. She considered that Richard, Tony's lawyer, had been helpful. Having everything set in place made her feel better. Janet liked the structure of the conference. When asked about any bad features of the process she quipped, 'Tony!'. She considered restorative justice conferences to be good, but had Tony broken into her house she would have felt more victimised. She said she would not go to a conference if violence were involved.

Janet's husband, Paul, said he was pleasantly surprised by the conference, and how well it went. It was a 'distinct improvement' on his previous experience under the youth justice system. He commented that talking with Tony 'might have clarified a few things', but he (Paul) had not gone to the conference with high hopes. 'I just don't have great faith in people like that.' He did not have great faith in the criminal justice system either, because 'justice isn't seen to be done'. One of his concerns was the length of time between the offending and the criminal justice process imposing consequences. It left offenders with an 'out of sight, out of mind' mentality, he believed, with little regard for the consequences of their offending. 'To change people's ways, they need to see the effect of what they do to others, the emotional hurt.' In Tony's case, this did not apply, because Tony knew his victims.

Richard, Tony's lawyer, said that he understood his role at the conference was mainly a supportive one. However, he said that, once the conference report was submitted to the restorative justice coordinator, he was questioned about the appropriateness of 'requesting' the victims to send a letter to the court 'in which the complainant stated how their interests would be best served'. He said that he did not recall requesting this. He said rather that, in response to a question, he had 'suggested' that the victim could forward such a statement to the court to facilitate the agreed conclusions of the conference which also ensured Tony was arranging reparation to be paid into the correct account. He explained that the conference was unanimous in agreeing with the suggestion, and it contributed to a consensual outcome.

This issue raised for him the question of whether or not, as counsel for the defendant, it was procedurally incorrect for him to take a statement from the victim to the courts, even with the victim's consent, 'where the Crown as prosecuting party to the dispute was not in attendance'. He referred to Rules 1.04, 8.07 and 10.8 of the Rules of Professional Conduct in presenting arguments for and against his actions. In hindsight, although he felt he had worked within the guidelines, he concluded: 'The process would be better served if any statement arising from a restorative justice conference was sent to the court through the restorative justice administration [the facilitators] who attend the conference, regardless of who suggests it'.

Deborah was asked if she had any concerns prior to the conference. Initially, she had very few as it seemed everything had all been resolved before the conference. However, once they met Janet it became clear there were a number of unresolved problems. Janet had had a negative experience at a family group conference under the youth justice system, and Tony was the second person to offend against her in the same way. Because of this, Deborah and her co-facilitator, Meryl, wanted Janet to get something from the experience. Because they considered this would be an unfair burden to place on Tony, they did not tell him about this beforehand. Another factor was that Janet had gotten rid of much of her anger when visited by the facilitators. She stated to them she didn't want excuses or apologies; she just wanted to make Tony squirm.

Of the conference's success, Deborah commented that both parties left 'seeming to be happy'. 'It was a success because Janet felt better this time. She still wants an opportunity to string him up, but the practical reality versus personal vindication she handled really well.' Deborah considered the decision not to charge interest showed some generosity on the victim's part. She also felt that Janet had been empowered. On the negative side, Tony's partner had not attended; therefore, she did not get her victimisation needs addressed. 'However, given Janet's demeanour, she might have been re-victimised.'

Meryl's main concerns centred on Janet being 'really angry' and Tony maybe not being able to make the payments or follow through. Of the success of the conference, she noted that Tony was somewhat 'stymied' by Janet's refusal to accept any apologies. 'For Tony to apologise would have been good for him.'

After the sentence...

The judge stated that Tony's offence was 'a serious breach of trust' and that it 'normally would have merited imprisonment'. Instead, Tony was ordered to pay reparation of \$5,617.00, and to do 5 months periodic detention. The judge stated that Tony was 'lucky the restorative justice conference resulted in some favourable conclusion to you'. He commented on the 'considerable inconvenience, distress and strain' Tony had caused the victims. However, he also acknowledged that Tony had shown remorse for his offending.

Tony thought the 5 months' periodic detention was a 'bit steep' given the fact that he was paying reparation. Notwithstanding this, he felt more positive about the criminal justice system. Being on PD, he said, had shown him some offenders 'that should be on PD, and it's made me feel only a small fry in the system'. He still felt positively about restorative justice conferences. 'They let everyone bring out their frustrations about what's happened, especially the victim.' Whether or not he would recommend the process to others depended on the crime. He considered that participating in the conference would prevent him from offending again.

Janet was asked if she felt that the conference report had influenced Tony's sentence. She definitely thought it had because he got told to repay \$150 per week and he got punished. She considered the judge's decision had been pretty fair and the experience had not altered her opinion about the criminal justice system. She still felt the conference had been well worth doing. 'It was good', she said.

However, in the course of contacting her husband Paul, some months down the track, Janet advised the interviewer that she was now 'just disgusted' because she'd received no reparation payments. The Collection Department at the court was, as she understood it, responsible for following through reparation. 'They are just overworked!' she added. Janet had telephoned them repeatedly and had also spoken to the bailiff, to no avail. She was on the point of writing to the Minister of Justice. Janet's husband, Paul, did not consider that five months periodic detention was a very great deal; it wasn't punishment. In hindsight, and given the non-payment of reparation to date, he felt the conference was a 'complete waste of time'.

Deborah was first contacted at around the same time as Janet. She considered that the order to pay reparation was 'fine', and that the periodic detention would depend on Tony's history. She felt it was a fair enough consequence and was lighter than prison, which she had gathered was a distinct possibility. It would also enable Tony to pay reparation. When informed later of Tony's non-payment to date, Deborah noted that the lack of follow-up was one frustration of this system. Had it been a fine, she said, it could have been remitted and converted to community service if the offender was in financial hardship. This was not the case with reparation, which, if it is not being collected, 'goes into a big black hole'. The alternative to court-ordered reparation would have been to hold another conference after the amount was repaid before sentencing. However,

in this case, the amount owed would take too long for Tony to repay, and it would be unreasonable for the court to wait that long.

Meryl, although not fully conversant with the number of hours per week involved with periodic detention, considered the sentence was rather light, especially when the offending was theft as a servant by a person in a position of trust.

Richard thought that the sentence was appropriate and confirmed that Tony was happy with it. He said that the victim yelling at Tony at the conference had brought the offence and its effects 'closer to home'. He also mentioned the non-payment of the reparation. He said that Tony had gone to the court three times, pre-sentence, trying to pay the reparation before his sentencing date. The money was in the bank on the day of sentencing. Richard would have liked it in and sorted out before sentencing. The problem was that because it was court-ordered reparation, it had to go into a court trust account, which the fines office would accept. Essentially there was no formal conduit for payment. Richard's final comment was that lawyers must say very little at conferences and that he was still very happy with the pilot. He still referred clients to it.

Twelve months later...

The thing that Tony remembered most about the conference was Janet's negative attitude. However, he still felt fairly satisfied with the way the conference had gone (though he felt that he had lost his job as a security guard as a result of it). He was also pretty well satisfied with the plan agreed to at the conference. The reparation had not yet been paid in full, but Tony said that he was paying it off weekly. Tony was less satisfied with the sentence saying that the PD was unwarranted. He felt that community service might have been better. Tony said he had committed a further offence – 'knocking three jokers out', in his words – but he did not think that, if the conference had done something different, it would have made a difference. Overall, Tony's feelings about the conference remained positive and he generally thought that they were an excellent idea.

Janet was still pretty satisfied with the conference overall and said that the thing she remembered most was the plan. However, she was only reasonably satisfied now with the plan and added that what had happened since the conference with respect to reparation made her regret taking part. She said dealing with various people about this was 'an absolute nightmare'. According to Janet, the reparation only started to be paid about two months prior to this interview. Janet said that the offence still had a very high impact on her and she described it as being only partly behind her: 'I have to go through it every week'. What had helped her most to put the offence behind her was getting back her trust in the manager who replaced Tony. Janet felt that conferences generally were quite good but she expressed disappointment in the follow-up.

Case Study D

This case study involves charges of careless use of a vehicle causing death and careless use of a vehicle causing injury. One afternoon, Jeffrey's vehicle crossed the centre line, causing him to crash into the oncoming car. The front passenger in the oncoming car, Minnie Canter, was killed and the driver, her retired husband Mark Canter, received chest injuries requiring hospitalisation. Jeffrey, who was very seriously injured, was airlifted to the nearest regional hospital for intensive medical care. The victims' family, Joy, Joanne and Mark, are New Zealand European, as are Kyllie, Jeffrey's wife, and Tom, his brother-in-law. Jeffrey and his sister, Elizabeth, are Māori. One of the facilitators, Louise, is New Zealand European and the other, Maria, is Māori. Key factors associated with this case study are the grief associated with the death of a family member and the extent to which conferences can ease this, the importance of pre-conference meetings and the potentially negative consequences of poor time-keeping by the facilitators, the role of faith and culture for different parties, the key role played by support people and the importance of closure and rites of forgiveness.

On the day of the conference...

The venue of the conference was a room in a contemporary church building situated on the edge of the town centre. The Reverend Pam Hutchins, a valued friend of the victims' family, who was to participate in the conference as a support person, had gone to some trouble to make the room as pleasant as possible. A number of chairs and couches were placed in a circle, which included a small occasional table covered with a lace cloth. A vase of flowers stood to one side. A much larger table set outside the circle was prepared with teacups, biscuits and so on.

At 9.55am, Joy and Joanne arrived. They said that their father was coming separately, and would be there soon. At approximately 10.00am, another group of people arrived: Elizabeth, Tom, Kyllie and Jeffrey. Jeffrey had clearly only partially recovered from the accident.

Because Joy had attended Jeffrey's court hearing, she recognised him. Once Joanne became aware of who the other people were, she took the matter in hand diplomatically. Between her and Pam, the situation was managed. Introductions took place. The absence of the facilitators became a growing concern to the families.

At 10.30am, Louise arrived, apologising for her lateness. She quickly realised that an unplanned 'pre-pre-conference' meeting had occurred between the victims' and offender's families. With Pam's help, Jeffrey and his family were taken to another room out of visibility of the conference room. When Maria arrived, she was to join them for their pre-conference meeting.

By the time Mark arrived, the offender and his family were in the other room. He greeted the facilitator, Pam and the interviewer warmly. He sat next to the small table, placing a recent photo of Minnie beside the flowers, draping over the photo a beautifully carved bone carving of a cross, intertwined with koru. Around his neck, he wore a similar bone carving.

The pre-conference meetings...

Louise conducted the pre-conference meeting with Mark, Joanne, Joy and Pam. She asked where they would like to start. Joanne and Joy said that they would like a prayer. Pam said one.

Louise recapped her telephone conversation with everyone and provided an overview of the restorative justice pilot. She emphasised that it was totally voluntary and that, if they wished to withdraw because they felt uncomfortable, they were entitled to do so. Louise also pointed out that there weren't many rules. The report of the conference, which would go to the judge after the conference, would state who attended, the discussion, and details of any outcomes, offers and/or agreements. These did not bind the judge, but she said that, in her experience, the judge respected them. She referred to the myth that restorative justice was a soft option, making it clear she disagreed.

Louise assured the family that they were able to say whatever they wanted to at the pre-conference meeting, and that the main issue was their physical and emotional safety. Confidentiality was explained, along with its limitations. 'It's your process, your rules.' Mark responded by telling Louise that they wanted the process to be very open, adding that they didn't want 'to wear any pestering or publicity from the offender and his family. If people contact me personally and my family, I don't think that would be a problem'.

Joanne suggested there might be possible difficulties unintentionally. 'We want to meet this man to round things off, to hear his side, to give him an opportunity to see the other side. He probably knows less about us than we know about him. He has probably not seen Minnie's picture. We don't want it to deepen the hurt. I'm looking for healing and closure. If that happens then it is good for all of us.'

Louise asked Joy what she thought. Joy sat there weeping, unable to respond. Joanne then said, 'I don't know whether we need to talk to you, Louise, but Dad has made a list of costs'. Her father elaborated: 'It's not the main focus, but from my point of view it is relevant to restoration. Money spent at that time had been very carefully saved by Minnie and I so we could go to Australia'. Louise commented that reparation is always at the forefront. Mark explained further. 'It's not to be bottom line. The bottom line is healing.' Louise told him she thought it was very important to tell Jeffrey that, as well as his reasons.

'We're not putting pressure on', Louise remarked. 'Things can come up spontaneously in a conference. Surprises can come out. It's a good idea to have an idea of what you want... healing and reparation so far. Are there other things?' Mark replied: 'Don't think so...restoration is the most important, to put us back as far as possible to where we were before the accident, to go forward.'

Joy was ready to speak. 'Is there a normal process?' she asked. Louise replied that it was their process and that it was flexible. 'We normally start with an introduction, and then perhaps a prayer. Do you want a prayer before the introductions?' Joy said quietly 'Do you know we've already met?'. Pam said 'It's not their fault or my fault'. Louise acknowledged this: 'It was mine. I am unwell, which was what caused me to sleep in'.

Louise introduced another part of the process. 'At some stage, we need to get an acknowledgement from Jeffrey that the police summary is accurate. Possibly we don't need to read it out entirely. Perhaps after the introductions?' They all agreed. Mark told Louise that, from their point of view, the conference needed to be directed by her. Louise then asked him, 'Would you like to speak first or would you like him to start?'. Mark replied: 'I'll probably start, say what's happened, that we want to gain some understanding of why and how. Not too long'. Joanne commented that once the conference started, it might just happen. Louise

acknowledged their point about facilitation: 'but if the conversation is going well, it's best that we don't put our spoke in'.

'But if it is silent, can you throw a pearl in to get things going?' asked Mark. Louise nodded. Joy asked about timeframes. She was told that every conference was different; minor offences could be quite short, more serious cases could take longer. 'I'm aware this is a traumatic event. You may feel you need some breaks ...to be private. Be comfortable enough to tell us if Maria and I are not picking up your need of a break.'

At that point, Maria arrived. Louise explained that they had been talking through the format of the conference and told her where the other family was so that she could conduct their pre-conference meeting. Maria then left to join the other family.

Louise continued where she left off. 'Would you like Dad to start?' she asked the daughters. Mark commented, 'We're all equal'. Louise summarised the issues so far. 'If there are dead spots, I'll say something...healing, closure, need to know he's genuinely contrite, reparation. Anything else?'

Mark raised another important issue. 'When I'm satisfied that he's contrite, I will offer my forgiveness. Then I will ask Pam to say a prayer, as a conclusion. You could possibly say, "Is there anything else you want to say in conclusion?" That's when I'll make the judgement.' Mark stipulated that he did not want any Maori protocols 'or karakia or anything like that'. Louise made a note of this.

Joanne had another question: 'What is the likely sentence for this offence?'. Louise looked at the maximum sentence on the summary of facts. 'It's an imprisonable offence; there's mandatory disqualification. Under the circumstances, it is unlikely prison would be imposed. But it can be community-based, like community service.' Mark said vehemently: 'I sincerely hope this isn't [a sentence of imprisonment]!'. Joanne observed that she didn't want to see Jeffrey in prison. Pam commented, 'But if there was alcohol, I'd like him hung out to dry!'

Mark asked if anything was known about Jeffrey's previous history. Louise replied the judge would consider anything he or she felt was relevant to the offence. Both Mark and Joanne stated that 'the judge said he had quite a history of offending'. Louise asked 'Do you need to know?'. 'No' said Mark. 'Why do we want to know...part of the jigsaw puzzle?' They came to an agreement that it was not necessary.

Louise revisited the issue of prison. 'You are totally able to state that you do not want Jeffrey to go to prison but, remember, yours will be only one view.' Mark then stated 'I don't want to be part of the criminal justice system. I do want to be in a family system. I don't want us to say anything about justice.' Joanne responded: 'Part of restoration might be us stating we don't want him to go to prison'. Mark agreed. 'I think you should make that statement.' Pam added: 'One thing is for certain; he is unlikely to want to be in this situation again!'. Mark responded emphatically: 'If he did, then he'd see a different side to me!'

Some general discussion ensued about the questions they wanted to ask Jeffrey, which was countered somewhat by the realisation that he might not be able to remember the answers. Mark stated: 'I still have flashbacks of a car coming on the other side of the road, and I'm reaching over and touching my wife who is dead!'. They wanted to know what had happened and why, and what decisions Jeffrey had made that led to Minnie's death. This process was endorsed by Louise, who, when Joy stated she would have a lot of trouble with this, asked Joy if she could write it out and have Pam read it. 'I don't want to walk away without them being said!' She ended this statement in tears, adding 'That photo's too good'. Mark remarked that it was taken at their 40th wedding anniversary, which had been a happy time. A brief discussion then took place about the seating arrangements for the conference.

Mark introduced a new topic: the police officer. 'No one can know how much we appreciate that man', he said. His daughters endorsed this. It was agreed that it was okay for them to say so at the conference. When the pre-conference meeting was drawing to a close, Mark observed: 'It's quite easy to assume that what has been devastating for us is to the judge routine. It's a wonderful, special process and opportunity to experience this conference with everybody here'. Louise checked that everybody felt comfortable. They did. She advised them that if they thought of anything else they could call her on her mobile before 1pm. Joy then closed the meeting with a prayer in which she asked for the afternoon meeting to be honest and open, a place where the participants could search for restoration and healing. Mark then presented Louise with a donation of \$100 for her service provider group. He insisted she took it despite her protests.

At this point, Maria entered the room to ask Louise to help her to answer some questions from Jeffrey and his whānau. Louise and the interviewer then went into the other room, after arranging to meet the victim family at the conference venue at 1pm.

The atmosphere in the other room was tense. Maria asked Louise about the reading of the police Summary of Facts. Louise explained that there was no need for the document to be read entirely as one of Minnie's daughters attended the court hearing. Elizabeth told the facilitator that, if it was read, they required the sentence about Jeffrey's previous history to be omitted. Elizabeth also asked: 'If it is read out, does Jeffrey have a right to seek clarification?'. Louise replied that the rules had been relaxed and that there was no need for it to be read word for word. 'It's no secret that Jeffrey has been involved in offending before', she added.

Louise explained the purpose of the meeting. 'Primarily, we are here today to talk about how it has affected everyone. Where to from here? It's as much as possible to restore and help people move forward. Anything you agree to, we report to the judge who may take it into account. He can say it's a good idea, but he won't do it, or, alternatively, he can say it's such a good idea that it resolves everything. This is the most common response. The victim family know that Jeffrey has some speeding history. They might want some answers, but this is no court hearing.' She checked with Jeffrey that he agreed with the police summary. Jeffrey nodded wordlessly. Louise continued: 'You need to consider what you want to do'.

Tom advised Louise that they had talked through this issue. Louise tried to make them more comfortable with the implications of the Summary of Facts, while at the same time confirming that it was important for Maria to have gone through it with Jeffrey, to check that he agreed with it.

Maria asked Louise, 'Is there a format?'. Louise then quickly took the opportunity to apologise for her lateness and the fact that the offender's family had had an unscheduled meeting with the bereaved family. She asked whether or not they were comfortable with a prayer. They nodded. She then outlined the format as it had evolved during her previous discussion with the victims' family. 'Introductions, Summary of Facts, an overview – a rule is that you, Jeffrey, acknowledge that it is correct. Mark wants to say where things are for him, what he understands, and then you are to answer. Then it just flows. He has two daughters. Understandably they are upset. Then Mark wants a prayer at the end. He has requested that there are no karakia.'

Tom advised her that this had already been discussed prior to her arrival. He elaborated: 'See, there's a pre-conception about Māori beliefs'. Louise acknowledged that New Zealand comprises two cultures living together, and that Jeffrey was Māori. Tom said, 'He's a Christian first and foremost'. Louise responded carefully. 'It behoves us to ask whether people have cultural needs. Some Māori don't want anything at all.' Elizabeth then entered this discussion. 'This concerns me. We are people first, Christian. That's respect.'

Louise asked if she had offended them. 'I do feel offended. There is a strong bias to cultural issues. My husband is European' answered Elizabeth.

'Is there a pre-conception in the other party?' asked Tom. 'No, there isn't. Sorry if I've offended you' said Louise. 'Mark and his family are very open to any dialogue that you might have.' Tom advised the two facilitators that Jeffrey's emotions were very close to the surface. Louise explained that the victim family would probably ask Jeffrey for answers. Jeffrey's wife, Kyllie, then spoke for the first time: 'Jeffrey cannot answer because he cannot recall'.

Louise tried again. 'It needs to be clear that this is not an aggressive process. The victims are willing to meet. This family is hoping for closure and healing for everybody. They might not be satisfied if they don't get all the answers they want, but they will accept that. Jeffrey won't need protection in there, but support.' Louise continued 'We will be taking a break any time it is needed. Jeffrey, if there are things you want to say, you can write them down'. 'I'll be alright', murmured Jeffrey. Tom responded to Jeffrey's expression of independence. 'I accept Jeffrey's comment. We're being hyper-protective.'

Louise then asked if there was anything else, and, 'What is the position about making this up to the family?'. Tom responded: 'What sort of things?'. Louise said that they were required to consider reparation, and added that a starting point can be an apology.

Elizabeth then spoke poignantly. 'My brother is very sorry. I respect that they had a wife, a mother and grandmother. We're all very remorseful.' At this point, she broke down crying. 'We won't have the person that we knew. I'm the youngest of seven; my brother is a good person. After the emotional repercussions... we've had to be his strength. We, too, have been victimised. Knowing Jeffrey for what he is, he will have to be accountable.' She wiped her tears away. 'It has been a strain on Jeffrey and his wife's relationship. A strain on all the people involved.'

Louise responded, 'Perhaps if I just give you an idea. The conference will flow. There can be a whole range of things such as money, an apology. Not that I am putting ideas forward', she added. 'Some conferences have mowing lawns, or the offender's family will support a child. These allow for restorative ways that the court just can't deal with. It's virtually limitless. A plan may be reached at the end of it.' Elizabeth explained: 'My concern is that Jeffrey's just not able. We've had to help him to get buoyant physically, emotionally, mentally, and spiritually. Everything can't be done straight away. He's not physically well enough for it to happen. Jeffrey's always been a giving person. I know he'll feel forever that he owes something'. Louise responded: 'If that's the way Jeffrey feels, then he might need to say so. He might need to ask, "What sorts of things can I do?" I'm not saying it should be mowing lawns'.

Elizabeth then said: 'There are two things that are important here - justice and mercy. Each has a role. What do they think is fair? Is Jeffrey going to feel it for the rest of his life?'. Louise attempted to put their minds at rest. 'This family is not seeking revenge. They know things have not been easy for Jeffrey, too.' Elizabeth commented tearfully, 'You lose a life, you can't replace it. Jeffrey has put others forward first, always. His nieces and nephews wanted to be here. Children are a first indication of what an adult is about. Now we have a totally different personality from what we had before. We have to pray that all hearts will be healed'. Louise affirmed Elizabeth's comments: 'That's a hope for the conference, too'.

A brief discussion centred on what had happened that day, ending with Elizabeth saying sadly: 'You can go round and round in circles, but you can't turn it back'. Louise suggested that the other family might have

some 'what if' questions. Elizabeth pointed out that this is what Jeffrey has been asking himself, losing much sleep in the process.

Tom then introduced a more positive tone to the meeting with the observation that it was a very good idea to structure the meeting prior to the conference. It sounded like an excellent format. Louise thanked him. She then canvassed the issue of confidentiality, stating that the victim's family hoped confidentiality was respected. It was agreed that Maria had covered this before Louise joined them. Louise then advised them that Mark had raised the issue of some 'comeback' (meaning contact from the offender) from the conference. He felt it could be a 'one off', but not again and again.

The meeting then closed with Jeffrey saying a karakia. This seemed to help him to find his voice. 'I want you to bear in mind that I walk in two worlds - Māori and Pākehā. If it is necessary for me to speak Māori, then I will do so, and I will translate it. I will be respectful of their feelings, which are not the same as ours.' Louise and Maria acknowledged this challenge silently as they all left the room.

At the conference...

Everyone seated themselves where indicated by the facilitators, who were sitting to one side of the circle and separated by the Rev. Pam Hutchins. Mark sat beside the photo of Minnie. This left the two families facing one another. The officer in charge of the case, Dave Miller, also attended the conference and he sat opposite the facilitators, between the families. Pam said an opening prayer.

Louise recapped the advice conveyed in the pre-conference meetings about the conference guidelines, describing restorative justice as a sacred process. She asked Maria to briefly summarise the offences. Louise checked with Jeffrey that this account was accurate. He agreed it was.

Mark started the dialogue. 'I want you to feel unchallenged and comfortable. There has been one tragedy; there is no need to make it two. We really want to know why, where and how, to help me understand why my wife was killed. Whether you feel contrite or repentant regarding the loss of my wife would be healing for us. We have just come home from laying my wife's ashes to rest with her parents.'

Jeffrey sat crying, visibly struggling for words. 'If I could go back in time, bring your wife back, and do it differently, I would. I'm aware of your loss. It sits with me every day of my life. Sometimes I have good days, but always it comes back to haunt me. Everybody says, "Get over it, get ahead" but they're not living in my body.' He wept openly. 'I am just so sorry it happened.' Mark said on behalf of himself and his family, 'We accept your apology. We hope you heal after this meeting with my daughters and I'.

Joy then spoke, stronger than she had been at the pre-conference meeting. 'I've written a few things down. Jeffrey, I was telling my husband that, if you had been drinking or driving real fast, it would be easy to know what happened, but unfortunately we don't know. At the end of the day, it was just a really tragic accident. It has been really hard. I live five minutes from Mum. Mum was my best friend. My loneliness and emptiness won't go away. She was always so calm and gentle. The silence of not having her there is sometimes overwhelming. I was at the court a few weeks ago – I needed to see you, to hear the story we've been telling for six months. I suddenly realised that it's your family's story as well. It's all of us. Can I ask a question?' Louise told her she could. 'I want to ask, Kyllie, has it changed your lives?'

Kyllie's one word response said it all: 'Dramatically'. Joy noted that she understood they had moved. 'We moved into a small place, with low maintenance, because I couldn't manage, basically, everything. He was an outgoing, sports-oriented man; he weighed 30 kgs heavier. He had beautiful teeth [lost as a result of the accident], and was very children-oriented. He has three grandchildren and can't even lift them, can't play with them. Everything has totally changed.'

The facilitator asked Joy if she had more questions. Joy did. 'I have a big hole in the story. That Friday was such a normal day. I just don't know what happened. Jeffrey, do you have any recollections at all?' Jeffrey blew his nose. 'All I know is I was coming up out of the gully with someone behind me. I hadn't eaten since 6 am; I was hungry. I wanted to stop. I can't remember. I'm really sorry. I can't... I spend so much time thinking about what happened.' He broke down.

Mark spoke. 'Jeffrey, that doesn't matter any more.' Jeffrey responded. 'It's so hard for me.' By this time, he was sobbing. 'I killed your wife...I come from a family of seven and there's five of us left. My sister said they were lucky they didn't lose me. I don't sleep. I wake early and can't go back to sleep. Sometimes, during the day, I just go to sleep. I can't tell you, I can't tell the police, I cannot help myself...'

Louise asked Joanne if she wanted to speak. Joanne revisited that fateful day. 'It was an ordinary day. I was feeling really good. Then I got the phone call. I wrote on the pad: "My Mum's dead." Now, there doesn't seem to be a place where I fit. I'm a university lecturer. I've been rude to the students; I haven't been nice to my husband or children. But my Mum...I still miss her. I've lost a part of my sister, my Dad and a part of myself too. I need to tell you that I have never felt anger towards you. As a family, we will live with the effects, and you will as well. Our hope for this session is that as far as we can, we move on. You need to create a new normality in your lives too – new and different futures.'

'Any more questions?' asked Louise. Joy said 'I don't have a reason for anger. It's just a tragic accident. I don't worry about Mum. My sadness is for me and my family. I'm grateful that Mum didn't suffer.'

Jeffrey responded: 'You have suffered a lot, mainly through me. It's a reality. And I say thanks to my family with all the help they have given me. I've said often "I wish it was me." I've always been told: "Well, it's not so get over it." I feel for you Mark'. 'That's a comfort', answered Mark. Joy added: 'I hope that's a help'. Jeffrey went on: 'Nothing will be the same again. I just hope I'm going forward. There are times when I feel I am, and then it starts again'.

'This may sound harsh', Joanne said pragmatically. 'You need to think of your grandchildren as a positive grandfather. Our kids have a wonderful grandfather. You say you wish it was you, but your grandchildren really need you!' Jeffrey told the conference how he had cared for children, how much it had meant to him. The two sisters informed him he had to keep on with that. Mark commented: 'Your children will always pick you up. My grandson said, hours after the accident, "Never mind, Pop, you can always pick me up"'.

Joy had a different story. 'Unfortunately, my children have had a hard time. They were with us at the time we were told. My daughter has home school now because she just cried and cried for nine weeks. It was very traumatic for them. They were so close; they spent hours with Mum. It has been difficult. They are now stronger and wiser children. My husband and I went to lay Mum's ashes, and the children were afraid we weren't coming back.' Joanne added: 'One child gives me a hug and says "that's just in case I don't see you again" '.

The facilitator turned the focus onto the other family, starting with Elizabeth, and asked her to talk about the impact of the accident on her. Elizabeth empathised with the victim family. 'We lost Mum some years ago. I don't think you ever stop missing them... My Mum managed as a widow very successfully, with seven children. When she was asked how she coped, she always told us about three important values - learning to love God, the value of hard work, and to serve others. We all worked together.' She turned to the victim family's grief. 'We were all very saddened when it happened. We wanted to show our respect to your family - the right Christian thing to do. Jeffrey has a very big heart, sometimes to his own detriment. He would never want to inflict harm onto your family. We had to wait for him to recover; it was touch and go. We were concerned about telling him about the fatality. It would set him right back. I hear what you say about children and their fears. My children and I had fears; we feared about Jeffrey. I guess too we...want the old Jeffrey back, but it's not possible after an experience like this. He lives between Kyllie and us. We've been support people. We've had to tell him: 'It wasn't you who died. You've got to get it together. You've got to repair your soul.' The difficulty is you have the non-presence of a wonderful wife and mother. We've got the presence of a man who is so different. Tom and I took Jeffrey back to where he thought the accident happened - but he didn't even have us in the right place. It's on a straight road. He had us in a gully. There were no skid marks to be seen. I watch the repair work on my brother. It hasn't been easy. You have to put them back together physically, mentally, emotionally and spiritually. I feel very, very sorry this has happened to you. I look at that photo; she looks loving.'

At this Mark, Joy and Joanne became very tearful. Elizabeth continued: 'I want to pay a tribute to you girls. Your mother will always be the heart and soul of your home. Your Mum said you need to build your home under the guidance of God. Thanks for the opportunity to speak', she concluded. Joy thanked Elizabeth, saying how comforting her words were.

Louise suggested Mark speak about what was needed to help repair the family. Mark told her that the conference would be the greatest thing, telling Elizabeth he appreciated her love. Joy told them she could appreciate their experience helping Jeffrey. She told them that she and Joanne sometimes had the same with their father. 'But strength grows; you lean towards each other. Dad helps us; we just get stronger.' The facilitator asked Jeffrey if he had more to say at that moment. Jeffrey was too upset to speak.

Louise turned to Mark. 'Anything?' Mark introduced reparation by stating that the costs had been horrendous, adding that this was not a bottom line. Joanne explained that 'bottom line' meant it was not their focus. Mark continued, explaining how he and Minnie had saved for their retirement 'to do all those lovely things together that life had not allowed them to do. We would like it if you could help support my children. It's the only tangible thing, other than to offer my love and receive your love'. Louise asked Jeffrey to respond. 'Financially, like... my work has all collapsed. I'm not in a position to help at present. In the future, if I possibly can, I would.' Mark indicated he would leave it to Jeffrey. 'Any landscape design work you need, I can bear witness that I'm a very good landscape designer.' Mark, somewhat embarrassed, said: 'I don't think we need to labour this point. Just leave it'. Louise advised the conference that the conference report had to address these issues. She asked: 'Is Jeffrey saying he can help out later on?' Kyllie spoke up. 'I don't think this can be entertained. He's in no position. It's a financial struggle for us as well. I feel there can't be any promises of financial reparation... he's not well enough to do landscaping work.'

Joanne asked: 'Should we give the court a figure?' Her father again requested that the matter be left. Elizabeth asked if she could have a private word with her husband, Kyllie and Jeffrey. The conference continued after a few minutes. Elizabeth asked for an indication of what Mark's costs had been. 'I represent my brothers and sisters, who are not here, and we would need to discuss it with them.' Joanne said: 'It was \$7000'. Elizabeth asked Mark if he would be open to discussing this issue. Joanne answered: 'Can I say

that Dad is generous to a fault. He is here for reconciliation and healing. But it is a court matter. I cannot speak for my Mum or Dad, but they squirreled away for years. The difference after ACC was \$7000. That's not an issue for Dad. I know I'm treading on his toes at the moment. But I want to assist him as if he was my brother. It's uncomfortable for him to speak about this, but it's not uncomfortable for me.'

Mark then took over the reigns. 'The figure Joanne offers is right - \$7000.' Elizabeth asked if the amount needed to be at once or could it be provided in portions. Mark replied: 'Let's call it a koha'. Elizabeth undertook to consult with other members of the family if Mark did not mind. Mark wanted to be more specific. 'I want the court to understand that, if this is agreed here, then court-ordered reparation is inappropriate.'

Louise pointed out the need to have it sorted out by the date they had to have the report completed, asking if that gave Elizabeth's family enough time. Elizabeth agreed that it did, but that she needed to confirm this arrangement with Jeffrey. Jeffrey then spoke. 'I want to talk to the family. At the end of the day, it's my responsibility...We need to talk and then to negotiate a monetary transaction.' Tom asked if it was okay for them to call Mark. Pam suggested quietly that it might be better if contact was made through Louise. 'It is a sacred thing', she added.

After a few more minutes' discussion on the practical implications of the koha, Tom asked if they could take some time outside 'for a brief talk'. Twelve minutes later they returned. The conference reconvened. Jeffrey took the lead this time. 'We're going to talk to the family and come back to you next Monday. I just ask if we could have a maximum time of three months, but we'll take as little time as we can, and we'll get the money to pay you. And, when the time comes, we'll come together and give you the koha.' Mark affirmed Jeffrey's statement saying that it was perfectly appropriate. Jeffrey continued: 'I'm very sorry for your loss. I thought...I felt very sad at that time...I'm very sorry for your loss, and your daughters'. I hope you get over it'.

Louise asked if anyone else had something to say. Joanne had: 'Just to note that it would be detrimental to the healing process, and, as a family, we would not want you to go to prison. We are fully aware of the damage your family has suffered.'

Jeffrey responded to another general invitation to speak, acknowledging the presence of the policeman, saying he had great admiration for him. Mark endorsed this saying he could not speak highly enough of him. It just confirmed his faith in the police force. Jeffrey thanked the facilitators adding, 'In a way, it has helped me. In a way, I am pleased to have met you.' He also thanked his brother-in-law and sister for their support during the previous six months. 'I haven't been easy. Like you, Mark, I feel a victim of circumstances. I have had Kyllie's support all the way through. Thank you all for coming together.'

Louise started to round things off. 'Is there anything else?' she asked. Pam told her that Mark wanted to finish the conference. Mark then stood up and walked across to Jeffrey, taking his hand and Mark and Jeffrey then came together in a hongi. 'I offer you my total forgiveness. Go home and heal yourself', he stated. Jeffrey responded in Māori, translating it. Unfortunately, because, like everyone else in the room, she was in tears, the interviewer failed to record what he said. Mark had the last word. 'It's all conditional on you taking charge of yourself, and getting these children and grandchildren back.' Pam then invited both families to stand and hold hands in a close circle of love. She invited the facilitators and interviewer to join in the circle and then gave everyone God's blessing.

After the conference...

Jeffrey was asked why he decided to attend the conference. He said he wanted to talk to the other family and give them an opportunity to talk to him. He wanted to make his peace, and it made him feel better to know that he could talk to them. It was important to express his sorrow at what had happened. He felt he was given insufficient time to have other family members present, but concluded that it had worked out well, given the number of people in the other party.

He felt very contrite and apprehensive at the beginning of the conference. In contrast, his feeling at the end was 'lighter in spirit but very drained emotionally. Emotionally, what he had done was still there'. At the beginning of the conference, he said he had felt some animosity directed towards him, which he considered was very understandable. After everyone had had his or her say, however, it was 'a little different'. He considered he had been able to make up for what he'd done by explaining to the best of his knowledge what happened, and he very much understood what the other parties felt.

He was partly ashamed of what he had done but he emphasised it had been an accident. He was happy with the plan agreed to by all parties at the conference, and he was very happy with the outcome of the meeting. The best part of the conference for him was reaching an agreement, without compromising each other's integrity. He thought the facilitators had written 'a relatively good' report, but disliked the terminology of 'victim' and 'offender', 'because in a sense, I'm a victim as well'. He was very satisfied with the conference and was rewarded afterwards with his first night's sleep since the accident.

Jeffrey was unhappy with the way his cultural needs were met. This was because 'I was told before we went into the main conference that I could not resort to my culture. I was told I couldn't talk in anything but English. This was by one of the facilitators, and I thought that was wrong. I would have let it take its own course. I believe no one should be told they should not speak in another language. If I talk Maori, I always translate. I do that with my family.' The plan did not take account of his cultural needs either, and he said that he only agreed to it because he did not want any bad feeling. He considered that for easing one's mind and emotions, restorative justice conferences were a good thing, and he would recommend them to others.

Mark thought the restorative justice conference was trying to achieve satisfaction for victims and, where possible, healing for offenders, as well as increased understanding between those at the conference. He reported feeling very nervous at the beginning of the conference, but felt extremely positive at the end. They had achieved the best outcome with what was available to all. 'When you see anything positive, it's better than what we'd had.' He was nervous about meeting Jeffrey, but said he had no anger towards him. He added: 'If he had been drunk, it would have been different!'. At the end of the conference, he felt sad, but he thought Jeffrey had visibly relaxed, probably because of who they were, and their faith.

Mark considered Jeffrey had been personally accountable. Justice, however, would not make him answerable until after sentencing. He thought it would be hard for Jeffrey to understand how he felt, and Mark said, unfortunately, he had no better understanding of the decisions that led to Minnie's death, due to Jeffrey's memory loss.

He felt very supported at the conference. Of the plan, Mark said it was a justified request, which was a verbal 'out of court agreement' and, therefore, not binding. He considered the agreement was more with Jeffrey's sister than Jeffrey. Like Jeffrey, he felt the good thing about the plan was that there was an agreement between them.

He had felt much better after the conference, even though he was too exhausted to get out of bed the next day. When he met the facilitators, who were obviously dedicated to what they were doing, he 'started feeling better'. He liked the non-legalistic approach of the conference, and the fact that it was directed positively but not 'overbearingly'. The only bad part of the conference was the fact that 'they messed up at the beginning. They must never have two parties in the same building at the same time. If I had met them, I would have been out of it. There would have been no conference.' Notwithstanding the above, he was very happy with the conference overall, and very pleased he had taken part in it.

On the subject of cultural needs, Mark considered his had been met, '...but this was because the facilitators told me they wanted to bring nine people. As a New Zealand European, I have my own culture and cultural space. I was not willing to have an overbearing Māori culture when I was the victim. Waiata, karakia, etc, would have been very threatening. It is time the 'pc' in our lives was pulled back so that, whatever we are, we are respected. A party of nine people would automatically have devalued the victim; it would have been overbearing.' He added that he believed the conference met his cultural needs because he'd set the ground rules.

He felt the conference had been very successful and had achieved what it had set out to do. He added that he had great respect for people like Louise and Mary. 'These people contribute so much to society.' He felt very positive about restorative justice conferences and would not hesitate to recommend the process to others.

Joanne found the restorative justice process far more satisfying than 'any court process'. The guilty plea enabled them to be outside the criminal justice process, to have an opportunity to be heard and to meet Jeffrey. She also expected that some sort of closure and understanding would occur as a result of participating in the conference.

At the beginning of the conference, she said she was nervous and unsure about how it would go. At the end, however, she was 'very satisfied. Our heads were very full'. She had needed to meet Jeffrey to learn what it had been like for him and for him to understand their experience. She felt desperately sad for him. She had been a little inhibited in what she could say 'because he was in such a state'. She did not say some things as they might have been damaging to him. Making up for what he did was not, to her, an issue, but she felt that he had been made accountable. Joanne found the experience a very 'family thing', so she did not need any more support.

Joanne considered the plan was appropriate, but it did not change the situation. She felt that Elizabeth was quite relieved there was something material that could be done, noting that Kyllie, on the other hand, was quite threatened by it. There were a number of very positive aspects to the conference: it was a safe environment in which to meet Jeffrey; it was a moderated way of expressing the impact of the offence on them; it was a safe way to receive his impressions; and it was a personalised process. Like her father, she was unhappy about the beginning of the pre-conference meeting. She had been unaware that the two parties were meeting at the same venue. But she concluded that their faith had had room to move in the conference, working in well with the offender and his family.

Joy said she had gone to the conference hoping to gain more understanding about what had happened, as well as peace and forgiveness. She had felt unexpectedly nervous and ambivalent at the beginning. Part of her did not want to be there, but the other part was quite comfortable about meeting Jeffrey. It was, she stated, quite a shock seeing him there prior to the facilitators' arrival. She felt good after the conference was over, and said: 'I felt a little bit awkward. It was hard to know what to say to him at the end. I would have left and gone home, but at the same time I wanted to stay. I felt like we had made new friends. It's hard to talk niceties after such an emotional conference.' That evening, however, like her father, she felt really exhausted, detached,

and only just functioning. She likened it to the way she felt when her mother had died: ‘...not weepy or teary, just wandering and vague’.

Like her sister, Joy found Jeffrey’s emotional state inhibiting. She could not tell him that what he had done ‘was so horrible’ or ‘how horrible it was’ for her. At the point when Jeffrey talked about his grandchildren, she felt like saying: ‘At least your grandchildren can touch you; they’ve got you’, but said she had refrained from doing so. Although the plan was only partially agreed, and needed the offender’s family to communicate with her father about the koba, she felt satisfied with what had been achieved.

Joy said she was interviewed too soon after the conference for her to feel different or better, although she appreciated hearing her father speaking strongly, especially ‘his forgiveness bit’. She was glad to have had her sister with them and to have been able to put her questions to Jeffrey. According to Joy, the only bad features of the conference were that the pre-conference meetings were at the same time and so they were all in the same room together on arrival because of the facilitators’ lateness. Notwithstanding this, she was pleased she took part in the process. She said she found it a victim-oriented process. If the conference had not happened, they would not have been involved at all, and would not have had the opportunity to say what they wanted. She would recommend the process to others in certain circumstances, but she said that she would not have gone if Jeffrey had been a drunk driver.

Kyllie went to the conference because she felt she should be there for Jeffrey’s sake as a support person. She told the interviewer there had been a lack of communication between them prior to the accident and that this had increased since. It’s led to her receiving minimal information from Jeffrey and sometimes to having very little time to attend hearings. After being to court one day, ‘he said he had to go to a meeting to meet the other people’. She felt dissatisfied with what she had been told beforehand, but admitted that there was a booklet ‘around’ which she had not read. ‘Perhaps I should have’, she added. As a result, she felt very unprepared for the conference. She said that they had only known about the 10am meeting, and had no knowledge of the separate pre-conference meetings or of another meeting at 1pm. She had told her employers she would be back at work that afternoon, and her work was 100 kilometres away.

She felt the conference would give everyone some form of closure, and Jeffrey an opportunity to apologise. She had hoped it would help him. Apparently six months previously, after being given the phone number by the police, she and Jeffrey had tried to visit Mark. She telephoned Joy who consulted Mark. Mark said it was too soon, so the visit did not occur.

At the unscheduled meeting prior to the conference, Kyllie felt nervous, not realising that Joy was one of the daughters. ‘When I went up to Joy, she said we had spoken on the phone.’ Once at the restorative justice conference, she also experienced nervousness and sadness, especially when she saw the photo of Mark and Minnie there on the table. After she had spoken during the conference, she wished she had said more. Had she done so, however, she thought she would have risked upsetting Jeffrey. When asked if she felt ashamed of what Jeffrey had done, she commented: ‘I don’t know if “ashamed” is the right word; saddened and sorry more than ashamed. I mean it was an accident; he didn’t do it on purpose’. She was partly in agreement with the plan. ‘As much as I feel the family is entitled to reparation, Jeffrey and I are not in a position to offer that. It has been offered and the family is helping.’ She was anxious about Jeffrey’s sentencing. For Kyllie, the best part of the conference was the relief of being able to air things. She joined the others in expressing concerns about the organisation of the pre-conference meetings, and added that she thought they knew little until Louise came into the pre-conference meeting. Despite these reservations, she was very satisfied with the conference overall, and felt that restorative conferences were ‘wonderful’.

Elizabeth was unimpressed with the preliminary part of the conference and observed that the facilitators should familiarise themselves with 'case guidance and processes'. She found Maria did not have the answers they needed and felt that Louise had come in with assumptions because they had brown skin. Elizabeth noted that not everyone 'fits into boxes'. She was offended by Louise's comments regarding a karakia. 'A karakia is a prayer', she explained and added: 'My grandmother is Irish and Scottish. Just because my brother is Māori doesn't mean he needs a Māori facilitator! It would have been better if it were treated like a natural process. The other family was having a prayer and their own pastor.'

Of the conference itself, Elizabeth had a very different view. She thought it had gone extremely well. She felt the reparation was the morally right thing to do, and said she had 'cleared the financial side up'. She thought Mark had shown a lot of emotion and his forgiveness after six months was 'amazing'. 'I had to salute the family', she added.

Her thoughts turned to Jeffrey, observing how different he had become since the accident. She had strong reservations about his undertaking to do any landscape and designing for the victim family, even though she knew he would do it free of charge. He was not, at that stage, capable of fulfilling this undertaking. 'It's just so sad. My whole family was very saddened. If we knew, we could have sent a family representative to gently pay our respects...' She added that she did not think Kyllie and Jeffrey's relationship had 'weathered the storm' very well.

Tom thought the conference had been highly successful, predominantly because of the spirit of the victim family. 'They had actually got their heads together and found a resolution, and they handled it well. If there had been any animosity, the facilitators' jobs would have been much more difficult...Jeffrey's situation was greatly assisted by the other family.'

The Reverend Pam Hutchins felt that it was a shame the day of the conference had got off to a 'shaky' start, but thought that once it settled down it was very successful. People had been able to share their thoughts. Of particular note was the 'spiritual thing working well', especially when Elizabeth shared her mother's values. 'I thought Jeffrey was helped by receiving Mark's forgiveness, to hear forgiveness by God and to forgive himself.' The forgiveness rite was one of the absolutions used in the church. She hoped it was to be a new beginning for both parties, and observed that they had all chatted together afterwards. 'Jeffrey's voice was stronger. When he came, he was a really shattered man', she observed.

The conference was Constable Dave Miller's first. He considered it had been very good. He said one big thing which led to its success was the fact that the victim family was so forgiving. He said that Jeffrey's lawyer, who was present during the constable's initial interview with Jeffrey, had suggested a conference. Dave felt that Jeffrey was suited to the process because he had conveyed so much genuine remorse. When Dave approached the family, he felt able to recommend the process to them, stating that it might help them to get through their trauma and loss.

The facilitator, Louise, was very aware that there were 'a lot of people who were multiple victims'; people who were grieving and 'not sure where they were at'. She was also mindful of the fragility of the offender. She explained how Jeffrey had wanted a larger group who wanted a karakia and other cultural processes. They had wanted to have that in the morning and to delegate a smaller group to attend the conference. 'But it didn't work out that way.' Of the confusion at the beginning, Louise commented: 'In hindsight, it all happening on the one day made for a big build-up. This added to the tension'. One problem was that Maria did not make it clear to Jeffrey that he could bring a larger group of people to talk through the pre-conference with him. The intention had been to pre-conference the victims' family first and the offender's family second. 'We were late

and the offender's family were early. Maria was unable to convey the victims' perspective because she did not know it then. I came in at the end expecting it to be all over and it wasn't. The miscommunications had the potential to negate what we were trying to do. We just had to work things through with the offender's family throughout. While they had said they understood and accepted everything, it was clear later that this wasn't necessarily true.'

Louise talked about some of the tensions they had to deal with. If Jeffrey had continued to telephone Mark prior to the conference, the conference might not have occurred. Mark objected to contact at that stage. Louise noted that, at the conference, Mark agreed to one communication from him, but 'then he said "no more!"'. Since the conference, Jeffrey had wanted to spend more time with Mark, but Mark wanted closure. Louise commented that careful dialogue from the facilitators had been necessary. In this case, their role had been ongoing, and she saw it was possible that this might need to continue for a while longer. She felt Jeffrey having grief counselling could change this. She described the situation in this way: 'It's been like picking through a flower patch, and occasionally I stood on those young plants'. She considered there were some lessons to be gained from the whole experience, but she was aware that the lessons affected other people.

Notwithstanding the challenges presented by this referral, Louise considered the conference had been a great success, largely due to the quality and attitude of the Canter family and to Jeffrey's remorse. 'I don't think there's a lot of credit to the facilitators, but there is to the process', she commented. Without the process, the victims' family did not know how they would be able to make it happen. 'They all had similar wishes and we provided the vehicle for them to do it.'

She felt they had all talked to each other gaining some mutual understandings and closure. The Canter family got from the offender what they wanted – remorse, understanding, and to leave the conference in peace. Jeffrey had a need to express his 'great sorrow', to show he was not taking the offence lightly, and he wanted to try and make it up, even though he knew he could not. Finally, Louise noted that the family were to meet again to give the koha. It was not, however, to be a cold transaction. At the request of Jeffrey and his family, Mark agreed to go to Jeffrey's territory to receive the koha.

Maria had concerns before the conference about the way the Māori family 'would handle the emotional side of things'. She was unsure how they would cope with the death of another person, and the questions about what happened from the victim family. Maria also commented: 'For me, I wondered how I was going to cope emotionally with this case, it being the first with a death involved'. Like Louise, Maria considered the conference had been a success mainly due to the nature of the victim family, and especially Mark's 'forgiving, loving and understanding'. She stated: 'The family exuded togetherness and showed the strength they got from each other and their faith in their religion. I feel it was the strength shown by the victims' family that turned the offender's family to look within themselves. They had a strong family too, different to the victims' family, and I think they wanted Mark and his family to see that. Although they were very shattered, they had strength as well.'

Before sentencing...

A special meeting was arranged for the handing over of the koha. The facilitators and interviewer were also invited. It was held at Elizabeth and Tom's home on a weekend morning. Mark, Joy and her husband John, with their two children arrived. Mark carried a large plate of fresh fruit he had grown in his orchard. All visitors were welcomed informally and invited to admire the garden designed and made by Jeffrey only months before the accident. Jeffrey appeared different; he had his new teeth and had lost his pallor.

Everyone was comfortable with each other and, after about forty-five minutes, there was a call from Joanne from Tabiti. The hands-free telephone moved around the room, as Joanne spoke to family members (on both sides), the facilitators and the interviewer. While she was still on the line, Jeffrey stood near a large fireplace, ready to speak. A little less emotionally this time, he thanked the victim family for coming, and eloquently expressed his sorrow for what happened. Tom held the telephone receiver so that Joanne could hear his words. Jeffrey then gave an envelope to Mark. Mark responded speaking very gently to Jeffrey and his family. He said, 'What a wonderful result this day is, this blend of two cultures together, and the love that is around us.' To Jeffrey, he extended an invitation to call at any time, and he told him: 'Live and love your life; there is much that you can do'. At this point, emotion overcame him. Joy and John quickly came to his side and surrounded him with their support. The formal part over, people mixed and mingled for a short while before returning to their homes.

After the sentence...

In sentencing Jeffrey, the judge commented: '...The purposes of this sentence...in particular...are to make the defendant accountable for the harm done to the victims, to promote a sense of responsibility for the harm done, to provide for the interests of the victims, provide reparation for the harm done, and also assist in his rehabilitation. When I consider the principles in sentencing include the least restrictive outcome appropriate, the circumstances of the defendant outlined to me, and the restorative justice conference outcomes, in my view, the submission by the prosecution is very helpful and it is a submission I am going to adopt today'. Jeffrey was disqualified on each offence for 12 months. Reparation was set at \$7000, and it was noted as having been paid. The judge specifically commented on the 'very moving and, in the end, very positive conference' where the victims were able 'to share...the impact of the loss of a wife and mother' and where Jeffrey expressed his 'deep regret and remorse'. The judge also acknowledged that reparation was not the primary issue; the most important issue was the 'healing of the parties and moving forward.'

Jeffrey felt the sentence was fair. He still had some residual concern about being labelled an offender, when he was 'really a victim of circumstances'. He noted, too, that a medical certificate had been provided to the court, which might have offered an explanation for the accident. Notwithstanding this, he felt he 'got off really lightly'. 'What we underwent, the restorative justice conference, was very positive.' He said he had always been in favour of them because they provide people with an opportunity to express themselves.

Kyllie thought the 12 months disqualification was wonderful and felt that the judge took the \$7000 koha as reparation. Things between her and Jeffrey were now 'not too bad' and he was getting ready for an assessment for his physical disability. Elizabeth thought the sentencing was really good. She had expected something harsher. 'The whole family is thrilled!' She felt that Jeffrey was 'picking himself up'. He was working part time with a gardening company doing light duties, as he eased himself back into work. Tom had very positive words about the giving of the koha. 'It was like friends meeting. It was weird almost! Here we had some people who had lost their wife and mother...it was phenomenal! It wasn't stilted or awkward, it smoothly flowed. It was almost a pity to say goodbye.'

Mark considered it very likely that the conference report had given the court information, over and above the victim impact statement. 'It must have made it easier for the judge to know we had reconciled. To be harsh would have been bad for everyone.' He felt the judge had taken into account his needs, and that she had approved of what had already occurred. When asked about his feelings about the criminal justice system, Mark replied that he considered the justice system was in crisis, under funded and overburdened. 'The justice

system with restorative justice conferences, however, is in good heart.’ He felt very positive about conferences and would ‘absolutely’ recommend them ‘where appropriate’.

Joanne commented on the sentence by email. She felt certain the conference outcome had impacted on Jeffrey’s sentence, especially as sentencing was adjourned until after every stage of the conference process was complete. She considered the judge’s sentence was pretty fair, and commented that she wished the restorative justice process was available in Tahiti.

Joy, like Mark and Joanne, believed the conference report influenced the judge’s sentence. They had intended to go to the sentencing hearing, but were not advised of the changed court date in time. She thought the judge’s sentence had been very fair, noting that, had there not been a conference, her response would probably have been different. ‘If we hadn’t done what we’d done, nothing would have been fair.’ She felt that restorative justice conferences were ‘the best thing that ever happened’, and she’d look at attending another conference if she found herself a victim again.

Dave Miller, like the Canter family, was completely against Jeffrey receiving a term of imprisonment and was very pleased that this had not happened. However, he thought the reparation of \$7000 was quite light. He would have added another \$5000, and asked for 6-9 months disqualification. He added a note of caution, however, ‘They (restorative justice conferences) won’t work for everything. You are going to get cases where families are not so forgiving’.

The facilitators felt that, given Jeffrey’s genuine willingness to take responsibility for his actions, the outcome at sentencing was very appropriate. Maria said: ‘To return to the second meeting and be able to hand over the koha near to a garden that Jeffrey had created, to see the people greet each other like old friends, to find connections between people, even Joanne there on the phone, it was a great success and a credit to both families. That is what I thought restorative justice was about, and why I wanted to be part of it...It was humbling’.

Twelve months later...

Jeffrey had tried to forget about the conference but knew that it was quite helpful. It had enabled him move on: ‘being able to talk to the family was a good thing...a great way of coming to terms with things and getting back to reality...but it is still there – something I’ll have to live with from now on’. He added that he still had a lot of sleepless nights because of what happened. The only things that bothered him about the conference were that it was a bit disorganised and the facilitators were ‘a bit pushy’. He also commented that he felt a victim of the offence too: ‘the whole thing was an accident and, while I didn’t think I was the offender, I was treated like one’. Jeffrey was still fairly satisfied with the conference overall and was very satisfied with the conference plan. However, he was very dissatisfied with the judge’s sentence: ‘once again I didn’t think I was an offender...being classified that way was something I disagreed with all the way through’. Jeffrey said that he had not reoffended since the conference/court appearance but he did not attribute this to anything that happened at the conference: ‘the accident contributed to it more than anything else. I became more aware of how vulnerable one can be.’ As a result of participating in the conference, Jeffrey now felt more positive about the criminal justice system and described restorative justice conferences as ‘excellent’. He said that he would recommend them to others but that he would not attend another ‘because that question will never ever arise’.

Joanne found the conference hard to remember. What she remembered most was ‘the power of seeing Dad forgive Jeffrey.’ She was also still bothered by the lateness of the facilitators for the conference. Overall, she said that she was very satisfied with the conference and felt that it was certainly of benefit to the victims.

However, in retrospect, Joanne felt that it might have been better to have held the pre-conference meetings in a separate venue. Joanne was also very satisfied with the conference plan and the fact that reparation had been paid in full. She was also relatively satisfied with the judge's sentence.

Joanne still thought about the offence daily and described it as still having had a significant effect on her. She said that it was not at all behind her, but added that 'it's beside me; I can walk with it'. As a result of participating in the conference, Joanne said that she felt much the same about the criminal justice system. However, she described restorative justice conferences as 'very positive, very powerful'. She said that she would recommend conferences to others and would herself attend another, depending on the situation.

Case Study E

Rory was a 17-year-old Māori boy who, with his friends, broke into XYZ Ltd. They accessed the premises through a very high skylight, endangering both themselves and the business. They apparently had a good look around, inspecting the managers' desks, but stole nothing. Rory and his mother, Jude, failed to appear at the first conference that was convened. At this conference, the victim, Rod, an ex-army officer, made it clear that if he was not satisfied with Rory's response, he would 'take out civil proceedings'. He did not convey any optimism about the idea of the conference, but was prepared to help Rory, if Rory showed that he was worthy of his help. Jan, the lead facilitator, and Molly, the co-facilitator, reconvened the conference when the victim agreed to attend a second conference. This case study illustrates the transformations that took place for both victim and offender – before, after and beyond the conference – and highlights the flexibility of a process, which enables creative outcomes, as well as the facilitators' commitment to achieving these.

At the conference...

Rory and Jude were late for the second conference. This time, however, Jan drove in her car 5 kms down the road to collect them. She then introduced everyone as they arrived. Rory's mother apologised for their non-appearance the last time. She explained that Rory had thought there would be a lot of XYZ people there and that he would get beaten up. Rod told Rory and Jude that he had decided to give 'it one more chance'.

Jan welcomed everyone to the conference and, although introductions had already occurred, each person was invited to introduce themselves and to explain their role. Jan briefly explained the ground rules, adding that safety was also very important. She asked Molly to read out the police Summary of Facts, adding that she knew there was a difference of opinion on one aspect. She had talked to Rod about this before the conference. 'Okay' said Rory.

Jan commented: 'So that's the Summary of Facts. Rory, I'd like you to tell me about the events of that day'. Rory replied: 'I was pretty bored, me and my mates were around XYZ, where we found some big ladders. We got excited when we saw the high window and thought it would be good to go around the place'. Jan asked him what he did. 'Basically just walking around the stairways', was his reply. 'Did you touch anything?' she asked. 'Yes, lots of things', responded Rory. 'What did you say to the police when they talked to you about it?' Rory said that he told the police that he was not going back there again. She asked him if he knew he was doing something wrong. 'Yes.' 'Did you know you were trespassing?' 'Yes', he acknowledged.

Rod was invited to comment. Rod had much to say to Rory. He explained: 'Our main concern is the height you climbed. Were you taking drugs? You could have slipped on the stairwell and not been found until after the weekend. We're like a family. Work is like a home. Most of our family photos have gone home since you and your friends were there. Our insurance premiums have gone up. The morale of the staff has gone down. The men and ladies there feel violated. I can't get people to work late nowadays. It's cost this company something like \$7-10,000 in costs. Not just in your case. My concern is for you as a young guy. You entered our home. I'd be upset if my daughter's picture was damaged. And I could have been going to your funeral!' Rory was looking at Rod as he spoke. Jude appeared to be attentive sometimes.

Rod continued: *'There are dangers. The key thing is the violation of their working home. Had the main computer been broken I would have had to send 25 people off work until it was repaired'*. Rod then added: *'I grew up in an area like this. All we want is for you to learn from it. You're a big boy. You've got a physical talent. Put it to good use. All the people you hurt are from the same area as you'*. He assured Rory that *'there's no threats of beating you in a pub... I'd get a buzz if, in 12 months, I learned that you were doing well. I've been where you are – I didn't get tangled with the law though. We'd love to see you move forward. Please talk to your mates. Don't violate our home again. The initial response from the general manager was "just close the place down"'*. Rory looked down, unable to respond. *'We want to hear good news about the future. Don't listen to people with bad ideas; just learn from your family. You're sitting with all this confusion. Just clear your mind. We want to see you go places!'*

Jan asked Rory if he had anything to say. *'Sorry'* said Rory, looking Rod eye to eye. It was Jude's turn to speak. *'I want to apologise for Rory doing these things. I didn't bring him up to do these things. You can't blame his friends. Rory is able to think for himself.'* Rod replied: *'I accept that. The main thing is that we all learn from this'*.

'How has it been for you, Jude?' Jan asked. *'Not very nice. I didn't think he would do this. I'm disappointed. I can't think why, when he knows right from wrong. His parents have brought him up to do better than this.'* Jan turned to Rory. *'Have you lost your job?'* Rory told her he had.

Jude continued. *'It's been one thing after another.'* Rory's head was bowed again. *'In our previous town, he told me about his friends stealing. We went to the police and he made a statement. He's been good for two years – no trouble.'* Rod replied: *'Life is full of temptations. I drove home over the limit, and my daughter said something to me. I shall never forget!'*

Molly asked Rory if he smoked cannabis. He said he had tried it, but he didn't take it. Rod observed: *'What I see is a bright boy with a great physique, physical agility and a special ability with heights. You've got to believe in yourself! Don't listen to them'*. Rory's mother echoed these sentiments. *'That's what I want. If they are going to keep getting you into trouble...'* Jan interrupted. *'What's going to help you now, Rory?'* Jude continued: *'It's like someone taking stuff from your room. You'd be angry!'* Warming to this subject, Rod added: *'It's the sentimental meaning of stuff. If I can help?'* Jude interrupted this time. *'You're 17. You've got a head start to see where you're going'*, Rod continued.

Jan looked at her watch. Rod had told her he was only free for one hour. It was nearly over. Rod reassured her. *'I'm prepared to spend more time. You've looked me in the eye'*, he said to Rory. *'Some guys at work doubted whether you'd be able to do that!'* Jude commented: *'As well as your people, I want to see justice done'*. Rod continued: *'We can have a 'no memories' meeting. Get it out! Fix it now! You've an opportunity to make a lot from this'*.

Jan thought this was a good opportunity to look at what had come up in the way of suggestions as outcomes, offering the participants a cup of tea if they wished. This offer seemed to fall on deaf ears. They wanted to get on with it!

'What a big buzz it would be for me if you came into my work and said I've done this – that you're not going down the wrong track', Rod exclaimed. Jan took up this theme, *'What are some positive things?'* she asked.

Rod's army career came to the fore. *'If you joined some army activity, your friends would be tough on you. You've got to say "Too bad!" You can do it.'* Jan informed those present that *'the judges do take notice of the*

report and are taking into account an attitude of cooperation...Was that a suggestion, Rod, say joining the volunteer fire brigade? What do you think, Rory?'. Rory didn't know. Rod suggested that if he liked heights, the dark and adventure, he should use those talents to do something positive. Jan tried prompting Rory to consider Rod's ideas more carefully, explaining that volunteer work would be seen as a form of reparation. Jude explained that Rory didn't know what reparation was. Rod told him: 'It's a way of saying sorry by doing something'. Jan endorsed this. Jude persisted. 'I know he'll do it but he doesn't understand.' Jan said it could be doing something for the environment.

Rod took the matter in hand. 'Man to man', he said to Rory, 'I see some talent in you. I'd like to spend some time with you outside this conference...You've got to harness your positives'. Jan asked Rory what he wanted to do with his life. His mother answered for him, telling the conference that he liked music. Rory added, 'I've got a friend in an audio shop'. Rod had an idea. 'Maybe in two weeks, you and I could have a meeting where no one else needs to know what is said.' Jan confirmed her understanding that Rod was offering to be a mentor. Rod replied that he had had a mentor, and to Rory he said: 'Try and tune into something positive'. 'How does that sound, Rory?' asked Jan. 'Good' was Rory's reply.

Jude told the conference that a lot of Rory's negativity came from his stepfather's attitude towards him. He loved him, but he put Rory down a lot, leaving him doubting that he could achieve anything. Rory confirmed this, when asked. Rod had seen something else in Rory. 'You looked me in the eye when you said "sorry". That takes strength. You can do it. You've just got to stay on this side of the line. I'm willing to put in the time!' he declared. Rory nodded with a 'Yep'. Rod continued: 'Think outwards. Don't think into your head. It's difficult being a kid. We all go through it. Tomorrow is the first day of a new beginning'. He gave examples of people who had 'turned around' from negativity.

Jan joined in. 'It's a good and courageous thing for Rory to do. Would you support him, Jude?' Jude said she would. Jude asked Rory if he knew what a mentor was. 'Someone to guide you?' he asked. 'So what if we agree that you and Rod spend some time together?' Rod, becoming really enthusiastic, continued: 'The real strength is when you come out of the court, even if you get a knock. Take the knock and move on'. Jan asked 'how does an hour pre-sentence sound, Rory?' 'Sounds good' was Rory's response. Rod told him that someone in his life needed to help him use his talents. 'It's all out there for you! You've got to have inner strength and ignore others.'

A date and time was set for the following week for Rory to go to Rod's office for coffee. Rod added: 'Don't not turn up because you haven't thought of something to do. I'm genuine. There's no way I'd recommend the judge wrap you in cotton wool'.

The conference participants then talked about quantities and types of community work which might be suitable for Rory. Molly, suggested that sometimes 60 hours over three months was put forward in similar conferences. She pointed out the need for Rory to be specific about what he wanted to do. Rod came to Rory's rescue. 'Maybe after next Monday, maybe he can do reparation for XYZ. You could come and clean the yard, etc. You need to realise, though, that if we hook into you, we don't want you letting us down.' Rod offered to write a letter to the court to be passed in with the facilitators' report. This would outline what work Rory agreed to do, depending on how the meeting went. While Rod was clearly very enthusiastic, he wasn't prepared to make any promises until he and Rory had had their meeting. Jan asked Rod to give one of his business cards to Rory. 'Jude, could you see that Rory keeps to it?' The conference was coming to an end. Jude thanked Rod sincerely for offering to help her son. Participants then shook hands, and left.

After the conference...

Rory said he went to the conference because he 'just wanted to see what it was all about'. He was under the impression it was to 'set things right' and to give him an opportunity to find out how the other person felt about his offending. He said he felt 'real nervous' at the beginning, although good about meeting the victim. At the end of the conference, he said he felt good. Of his encounter with Rod, he felt 'very good'. He did not feel too scared to say what he wanted to say; nor did he feel anyone said too much. He wasn't quite sure whether or not, at the conference, he had been able to make up for what he had done, but he thought so. He saw the victim, Rod, as the main person speaking up on his behalf, and his mother and Rod as his support people. He stated he was very satisfied with the conference. 'Because...I dunno. I was satisfied 'cos Rod let me work with him on reparation, and let me go and talk with him whenever I want, about anything, whether I'm at work or not.'

For Rory, the good features of the plan were working at XYZ. 'He's got good people there. I like working with Rod. It keeps me busy, and the meeting with Rod made me feel really good. I still feel really good!' The only bad feature of the conference was that he'd gone with a lot to say and, when he was there, he forgot to say it.

His last words on the conference were: 'I liked it a lot, and I am satisfied with everything that went on. I was happy because I got a chance to speak, to say my words without others putting words in my mouth'. He did not consider he would offend again. Participation made him feel sorry for how it had affected the victim, 'and how kind he was as a person'. Rory gave an example of Rod's kindness. Rod had asked his deputy manager to get information for Rory on building courses. He was plainly very pleased.

Rory was spoken to again by telephone, almost two months after this interview, in the process of attempting to interview his mother, Jude. He was extremely outgoing and talkative. He said, 'Working at XYZ has changed my life. I learn something every day'. He had his meeting with Rod on the first Monday after the conference, and was asked to start working the next morning. He had to start at 7am, which meant a 5.30 am wake-up. After one and a half weeks, he was called into Rod's office. Rod had his deputy manager there and they both looked quite stern. He was concerned that perhaps he had not done his work well enough. They then told him how pleased they were with him. The place looked so different with what he had done and, in fact, he had done more than he needed to. They gave him a \$50 bonus. Rory said he got up to leave. 'There's more', they said. They offered him a job, with a written contract, where he could choose between three types of work, and they would give him the training. He stated: 'It's like this was meant to be. I never used to express how I felt or smile. Now I smile a lot, and I'm too busy to get into trouble. I'll be there a very long time'. His work at XYZ has shown him, 'a new pathway', his 'own new journey'.

Jude went to the conference for two reasons: to see what the whole thing was about, and to support her son. She felt very prepared for the conference, giving it seven out of ten marks. She and her family were told that it was a new system in her area, what would take place, who would be there, and that it was a chance for victims to face offenders to express their feelings and for the offender to explain his side of the events. Jude praised the facilitators, their manner, how they treated the participants, right down to the last meeting, and said that they were very sensitive to the family's culture as well. The conference was trying to achieve a 'wake-up call' for Rory.

Although at the beginning of the conference, Jude said that she felt 'a bit' ashamed of having to be there, and a little nervous, she felt comfortable because of the preparation. Of the victim, Rod, she spoke very highly. 'I think he's way up high. I put him on a pedestal for the understanding he's given my son. He looked at what

my son did and turned it into a positive.’ She felt very involved in the conference and able to speak when she needed to. She was listened to, understood, and taken notice of. She felt she was treated with respect.

The plan was better than she expected ‘in that it was fruitful...a lot of positive communication, nothing was brushed over, and everybody had a say about the outcomes, including Rory’. ‘Rory walked out of the conference a tall man’, Jude added. As a result of the conference, Rory had gained a better understanding of how his actions had affected many other people. ‘He’s grown up a lot since he’s been working. Thinking more about what he’s going to do. He’s said he cannot imagine doing those things now.’

Rod was interviewed one month after the conference at his request. He wanted to see how the meeting with Rory and any subsequent events went first. Rod’s curiosity and the facilitators’ persuasion got him to the conference, along with some empathy with the offender. He’d also seen something about conferences on television. He said: ‘I’m a believer in fate – sometimes you’re put in a position to help someone’. He thought that it might help XYZ too. Rod went to the conference with an open mind as to what the outcomes might be and, for him, the conference had a number of distinctive advantages: it achieved a ‘cooling off’ period from his personal point of view; it gave him time to reflect on the size of the problem, and an opportunity to think it through from a corporate perspective.

At the beginning of the conference, as general manager, he was ‘wound up’ about the cost of the offending to the business, and the impact on his personnel. On an individual level, he was curious to meet ‘someone who could do this’. He felt Rory had further alienated him by his non-appearance at the first convened conference. ‘Not knowing much about his mother, at that stage, I thought I could see some of me in him. I’d been helped as a young man, and I wanted to help. On the corporate side, I had a need to tell him what he’d done.’ After the conference, he felt he’d made the ‘corporate point’ and told him of the cost to the company. ‘The other part of me was wanting to get rid of the negative, and wanted him to move to the positive...Once I’d got him to eyeball me, I got a genuine feeling he was a brave boy. He stood up for himself. I’m not sure having a parent with him was a good idea. I think he was also apologising for his mum. His personal strengths showed. When he smiled at me a couple of times, I wanted to get him out of the justice room and out of the parental room and meet him man to man.’

He recalled being very immersed in the conference process. ‘I was in for real. Once I commit, there are no constraints.’ He understood what was happening, but found himself planning ahead. ‘So the process was kind of a formality, it had to be gone through before the next stage.’ He noted how, when he explained the impact of Rory’s offending, Rory ‘never once interjected’. When asked if he had an opportunity to say what he wanted to say, he responded ‘Definitely. You wouldn’t have stopped me!’. Rather than consider anyone had said too much, Rod considered it was good healthy dialogue. He felt that Rory particularly treated him with respect. He felt that Rory had been able to make up for what had happened, and Rod had accepted his apology ‘in full’. By apologising, Rory opened up the future for himself. ‘I wanted him to be accountable for his lapses, his attitude, etc.’ He was not able to tell whether Rory had been made accountable for his offending; that would be decided at court. He added, ‘If by what I’ve done, if that softens the blow, you’ll have one very pissed off victim! If so, I’ll feel we’ll have failed’.

Rod gained the impression that Rory understood how he felt. He thought Rory was quite a sensitive person without being weak. ‘There was no grovelling. It was a genuine man-to-man apology.’ On the issue of support, he stated: ‘There were three nice ladies in the room – this helped take the harshness out of it. The gender mix gave a conciliatory atmosphere to the meeting’. He had no need of additional support. For Rod, the good feature of the plan was that a genuine positive came out of a negative. He felt better for participating

in the conference and said that he had gained insight into the need for reflection in his managerial role. 'I still need to be proven right. I believe we're onto something with Rory, but it needs to be proven!'

Rod was very pleased with Rory's progress. He said he was learning many skills. It was as if 'someone had opened the door for him and he's had the balls to walk through...that guy's got latent character and it just needed something to happen to help it develop', he stated. It was a 'big high' for the general manager to take him out of the 'legal file' and put him into the 'personnel file'. He explained how, at their first private meeting, he and his colleagues worked on 'unlocking' Rory's talent. Now he was part of the family at the workplace; he was coming to the Christmas party and he would probably do Round the Bays with the team. 'The whole thing was when he looked me in the eye and apologised. It was a huge cultural jump!'

Rod had a couple of concerns, however. One was that XYZ was trying to get some financial assistance from WINZ for Rory's employment, and he was being fobbed off from branch to branch. Lack of success in this regard was not going to impact on Rory, however, as Rory was locked into a contract. His second concern was Rory's day in court, which was to take place in one week's time. He was worried that it was just taking Rory back into that world he'd left. He said that either him or his deputy manager would be there to support Rory at court, and that they would watch him carefully afterwards.

Rod said he whole-heartedly supported the concept of restorative justice conferences, especially the structure, which he considered made it 99% certain there would be a positive end. Rod said his needs were met at the conference. 'A strength of the process was having three people from the judicial system with roles to play, but the two main actors were left to dialogue with a clear runway. There were no interruptions, but there was a sound structure to it.' He considered the process had much to offer the industrial sector. 'We have a collective responsibility to help the less skilled members in our communities. But what we don't have is the knowledge of it.'

Jan had many concerns prior to the conference, but mainly about a lack of interest in and support of Rory by his mother and stepfather. She had liaised with Rory, and had asked for Rory's mother to be present at the pre-conference meeting. She went shopping instead. Jan was also concerned that Rory was adequately supported at the conference; he was only 17. She did not want him to have to manage it all by himself. Jan never felt she had 'Mum on board' at all. Jan had also met the victim, Rod, and learned that he was very angry. She expected Rod would give Rory a serious talking to.

After the first conference did not eventuate because Rory and his mother did not arrive, Jan learned that the boy's stepfather was against the conference on legal grounds. He disagreed with aspects of the Summary of Facts. In the end, she telephoned the restorative justice coordinator, on her cell-phone, and handed the phone to Rory's stepfather. They talked for 20 minutes. Throughout this conversation, Jude 'played on her computer'. In view of her complete lack of interest, it felt like an uphill battle', Jan declared. However, since the conference, things seemed to have changed. Jan received regular calls from Rod about Rory's progress. It was obvious that he had become quite involved and was delighted with Rory's progress. She also said that she had accidentally met Rory and Jude at the local supermarket. She asked Rory how he was feeling after the conference. He responded, 'Absolutely wonderful!' His mother looked very pleased also.

Molly was not involved in the pre-conference discussions with Rod, Rory or Rory's family. She was, however, kept updated by Jan on Rory's progress and impressions, throughout this period. From what Jan told her, she had some misgivings about the conference. Rod's attitude initially centred on going to the conference to get information for a civil case. Rory's apparent lack of support made it likely that a support person would not accompany him if and when he got to the conference. She felt she would not have been as 'dogged' as Jan had

been, given those circumstances and Rory's lack of enthusiasm and commitment. These impressions consolidated when, at the first attempt of conferencing, Rod spoke about Rory and his co-offenders as 'little scumbags, arseholes'. 'Maybe if I had been at the pre-conference meetings, I would have seen a softer side. His attitude was harsh and judgemental.'

Her evaluation of the success of the conference contrasted markedly with these initial impressions. She observed that Rod's attitude seemed to change when he saw Rory arrive, albeit late. Rory came in respectfully and remorsefully. His head was bowed; he took his hat off. He had clean clothes on. The real turning point was when Rory apologised, after Rod had 'barked' at him to 'look me in the eye and say that!'. Rod observed that he had men at work who could not look him in the eye. Because it appeared that this was the first positive comment that Rory had received for years, Rory looked at Rod. He didn't look at the facilitators when they spoke, but he looked at Rod, raising his head. Going on what Jan had said about Jude, Molly was pleasantly surprised to hear her thanking Rod and making positive comments about her son. Even though things had gone well at the conference, there was still a question in Rod's mind, Molly felt, about whether or not Rory would turn up to the arranged meeting at the factory.

Apparently, the day and time of the visit involved new dramas. 'Rory must have felt he was being set up!' she noted. According to Rod's report to her, there was an emergency with one staff member. The riot squad, police, ambulance, and fire service surrounded the building. Rod told Molly afterwards that Rory 'focussed him on what he was there for' so their meeting commenced. 'The thing that hit me the most was that two people of opposite views sat down and talked, and that a person who has seldom received positive comments has received them from someone they've offended against. He's just blossomed, risen above all expectation! Once people talk and positive comments are made to offenders, you can see the difference in them. I guess it's been magnified in this case.' Molly also added that Rod had recently wanted to retract his earlier comments about Rory having to take whatever the court handed out to him. 'Now he really wants Rory to come out without anything bad happening', she concluded.

After the sentence...

The judge commented on the fact that Rory had made a favourable impression on the victims through the restorative justice conference and through the work he had done for their business, so much so that they had offered Rory a job. The judge gave Rory credit for this and went on to say 'it is admirable...of the complainants to be so forgiving and to give you a chance. You have carried out your end of the bargain on the plan and there is a notation on the file that the court would adopt the recommendations in the report'. The recommendation in the report was a discharge or ordered to come up for sentence if called upon in 6 months. The judge said that 'burglary is a serious charge and to discharge would be an unusual step'. Because Rory had also reoffended, Rory was ordered to come up for sentence if called upon in 6 months.

Rory was very happy with the judge's decision, thinking it was 'more than fair'. His experience made him feel better about the criminal justice system, and he considered that the restorative justice conference 'showed the court how the person who did the crime felt'. He was asked if he would recommend a restorative justice conference to others. 'Oh yeah, course I would. Definitely.'

Rod considered the sentence to be very fair and a far-sighted decision. The judge 'picked up the need for a day of reckoning if it was necessary'. He was most impressed with the fact that Rory had gone to court by himself and that he had returned to work afterwards. 'Most people would have gone home and got drunk!' he commented. He felt Rory's trip to court had been like a step into another world he had been in, in the past. 'I'm very happy for Rory – he's done all the hard work and is starting to walk on his own.' The restorative justice conference provided a 'catalyst for things to happen'; it was a 'door opening; the right situation for him to discover his own potential and to escape from the apron strings'. The company was arranging literacy assistance for him, and also hoped to assist him with alternative accommodation. Rory had apparently developed a very positive relationship with his boss, who had 'taken him under his wing' somewhat like a surrogate son. Rod concluded, 'We've given him the runway; he's got to fly now'.

Jude was unable to be contacted for further interview.

Jan commented that Rory's sentencing outcome was 'marvellous, awesome. I am so pleased for him. He's got behind himself and Rod is behind him. I couldn't be more pleased'. She noted that Rory was 'absolutely blown away' with the result.

Molly also believed it was the right decision. 'It proves restorative justice can actually work. It shows that lots of kids in Rory's situation, if given the opportunity and guidance, can turn their lives around. It will be very interesting to hear in 12 months time, how he's doing. This kid's not going back', she declared.

Twelve months later...

Rory found the conference difficult to recall: 'it's just so long ago'. However, he said that many good things had happened to him since the conference. He had gotten a job through the place he had broken into, as well as new skills, a car, and a driving licence and he now saw himself as more grown up and mature. Rory was still very satisfied, overall, with the conference – saw it as equally benefiting offenders and victims – and with the conference plan. He said that he had completed all the agreements reached there. He was also very satisfied with the judge's sentence: 'if he'd sent me to jail, I'd have been done'. Rory had committed one offence since the conference: driving while disqualified and he was disqualified for this for a further six months. He did not think the conference could have done anything differently to prevent this happening. He said that he just forgot the date he was disqualified to and started driving three weeks too early. Indeed, Rory said that he felt 'pretty strong' about restorative justice conferences and suggested that 'you shouldn't have to go to court until you've been to restorative justice conferences three or four times...it could change your mind how you think about things. It's a real eye opener. I actually think it's superb'. He said he recommended restorative justice conferences to others, and would go to another one if he had to, but added that this was not going to happen. He said he would not mind attending as a support person for someone else.

Rod still remembered the conference well, recalling that he was 'very pissed off at the beginning'. He was pretty satisfied with the conference overall and was very satisfied with the plan. He totally disagreed that conferences were primarily for the benefit of offenders. Rod was pretty satisfied with the sentence too. He now felt more positive about Rory because he did what he was supposed to do and his apology was sincere. He also felt this way because Rory was now working for his company. Rod described the offence as 'all behind him' and thought that his participation at the conference, the things he had done for himself and the passage of time had all contributed to this. He still felt positive about the criminal justice system, would recommend conferences to others and would attend another conference himself.

Case Study F

People caring for those with multiple disabilities are in a significant position of trust. Rebecca abused this trust through using a document (a cash card belonging to the victim, Margaret) with intent to defraud. Margaret, who was over 60 years old and had mental and physical disabilities, had little understanding of what had happened and its implications. However, Rebecca's offending also affected Margaret's family and Rebecca's employer. Margaret's two sisters, Denise and Laurie, went to the restorative justice conference as support people and to speak for her. Denise's husband, John, also attended the conference as did Cynthia, the manager of the institution responsible for Margaret's care, and Marion, Margaret's current caregiver. Rebecca was supported at the conference by her sister, Lorraine. The different reactions of family members, the special and close relationship between Rebecca and Margaret, the business priorities of the company who provided for Margaret's care, and the reasons for Rebecca's offending are noted in this case study. Despite the great hurt and anger in Margaret's family, they emerged from the restorative justice conference with a greater understanding of what had happened and why, and were able to be reconciled with Rebecca. Valda was the facilitator and Miriam the co-facilitator.

At the conference...

The conference started behind time because Margaret arrived five minutes late. She was then allowed some time with her family (Denise, Laurie and John). Rebecca and her sister, Lorraine, stayed outside the meeting room, with one of the facilitators who talked with them.

Valda, invited everybody to be seated in a large circle. The ground rules were already written on the white board and Miriam, her co-facilitator, sat beside this. Surrounding Margaret, on either side, were her family, and Rebecca and Lorraine sat next to Miriam. Cynthia and Marion sat beside Margaret's family. Valda thanked everyone for being there. 'We're here to discuss an important matter before the District Court.' She introduced both herself and Miriam. Miriam then spoke to the ground rules on the board, giving those present an opportunity to ask questions. Valda explained that Miriam would read the Summary of Facts about the offence. She added that attempts had been made to contact the probation officer and invite her attendance without success, and the relevant police officer was on leave.

Rebecca had withdrawn the sum of \$6,590 from Margaret's account to support her gambling addiction, using Margaret's credit card. Valda asked Rebecca if she agreed with this summary. Rebecca said that she did. 'Now is the time for someone to start', declared Valda. She turned to Margaret. 'I'm sorry, Rebecca', said Margaret. 'It's me who's sorry', replied Rebecca. Valda turned to Laurie and Denise. 'Do either of you wish to say anything?'

Denise answered: 'We've had to experience the hurt...We put our trust in you'. John declined to add to his wife's comment. He was there to give her his support. Laurie was not so reticent. 'There's been a lot of anger. We've been very upset about what you've done to Margaret. She's our world. We have had things going around in our heads for days. We want to know why? We don't understand it. You've taken away our trust!'

Valda asked Rebecca how it had been for her. Rebecca responded. 'Please, the blame is on me', her lips trembled. 'I got caught in a situation I never thought I would. I have always been a responsible person. I just started going to the casino. At first, it was okay; I could handle everything. I was taking Margaret shopping and we were rushed. I didn't realise I had her card on me. I started by borrowing \$100 and then putting it back. It started gripping me! I don't even know how. I do love Margaret, I've cared for her for many years. I know she trusted me as well.'

Valda commented that she knew that Margaret might not respond at this time, but she asked 'Margaret, do you understand what Rebecca said?' Margaret said she did understand. 'Denise?' Denise responded. 'Initially, we cared for you as much as Margaret. As a person, I can't be angry with you, just what you did. It would be easy to be angry, but we're not like that.' Laurie then spoke. 'I see things differently. It's the betrayal of trust Margaret had in you, her life. You were there and we trusted you to do things we would normally do. It hurts. It's more than just money. She asks nothing of anybody. She only sees the good in everybody. It just hurts.' Valda invited Rebecca to respond. Rebecca stated: 'I acknowledge the pain, and thank you for coming today. I'm going to try and make things right. I am ashamed. I know exactly what you are saying. She's a lovely person'.

Valda invited the others present to comment. Lorraine spoke. 'I'm Rebecca's sister. She wouldn't hurt anyone; she's such a beautiful person.' She wept. 'She was devastated. Very, very sorry. It was a bad year when it started. This is not an excuse. But it affected her. She is trying to address the wrong she has done. She's a wonderful human being – she's my sister and I love her.' Both Rebecca and Lorraine cried at this time.

Cynthia then commented from her perspective. 'We are a family business and I work over 9 to 5. I have lots of responsibility. Rebecca was an extremely trusted member of our staff, and not the only member of her family working for us. The other, Elizabeth, dressed Margaret today. We need to separate this. We are devastated because we care for our clients – we have found our own sense of shame and humiliation.' She turned to Laurie and Denise, tearfully. 'We've had to deal with your resentment and anger. I feel that over the last 10 years we have done our best to care for Margaret. The hardest thing I've ever had to do was sack Rebecca! I was the one who had to go to the police, maintain care and love for Margaret, deal with everyone's feelings. In reality, our organisation is as much a victim. We were devastated that this happened to one of our clients. We are aware Margaret is hurt, the family is hurt, and we are also hurt.' And, to Rebecca, she added: 'Rebecca, you were a friend, a part of our family. I thank you for taking part in this process. I personally do not want to see you destroyed. I have seen the effects of gambling. I hope life becomes better for you'. Cynthia cried some more, comforted by Marion's hand on her shoulder.

Valda asked if anyone else had something to say. Denise responded. 'It is interesting that it is not the money that is an issue. We were frustrated with every step we took. My concern is the care of Margaret. Certainly, I want her reimbursed.' Laurie agreed with her. 'Her needs are few. It's just us in the family. Our father died when we were very young.' This time, Laurie was in tears. 'We had heaps of problems as we grew up, but we were always very protective of Margaret. Hurt her and you hurt us. I know we need to move on and that this is part of that.'

Valda observed that Margaret's caregiver, Marion, had not spoken. Marion replied: 'I would like to say how sorry I am that this has happened. I am here because Margaret asked me to come. Rebecca, I do respect that you've come here today'.

At that point, Valda suggested the conference stop for a break. Miriam informed them that one of the facilitators would work with each group after seeing that everyone had a cup of tea. This took twenty-five minutes.

During the interval Valda spoke with Margaret and her family. Denise told her that this was the first time she had had an opportunity to say anything about Margaret. Valda, who obviously had an awareness of other issues, suggested they brought these forward when the conference reconvened. Denise said the offending had been the last straw, and that she did not want to detract from the offending. 'Perhaps we can have another meeting', Valda advised. Denise explained to Valda the differences between her and Laurie. Laurie was more dogmatic. She saw the situation, whereas Denise saw the person. The discussion then focused on reparation, and what would be a reasonable amount for Rebecca to pay weekly, given her circumstances. All the interviewer was able to hear of Miriam's meeting with Rebecca and Lorraine was Miriam encouraging Rebecca to say something to the conference participants about what she thought needed to be done.

When the conference reconvened, Valda asked: 'What now? You are really coming to the conclusion of the meeting. Does anyone have anything to say regarding recommendations or reparation?' There was silence for a few moments.

Valda then turned to Laurie and Denise, advising them that a staff member had come to see her a few days prior to the conference to tell her that they wanted the family to handle Margaret's money in future. Marion took this cue, saying that they would like to arrange for the family to set something in place. Cynthia noted that since this had happened, Marion had been looking after Margaret's account. There needed to be an arrangement as to where Rebecca was going to repay Margaret's money. She made it clear that the organisation would prefer not to have anything more to do with Margaret's bank account. The discussion then centred on this issue, canvassing types of accounts and signatory requirements.

Denise brought the discussion back to reparation. Rebecca explained that \$10 per week was presently all she could afford. She was a caregiver for her mother who was terminally ill, and her father was also physically disabled. She was on a benefit, and said that later, when she was able to get a job, she could increase the repayments. Laurie advised her that \$10 per week wasn't enough. 'We feel \$50 per week is more reasonable. \$10 a week will take twenty years for you to pay the money back. It should be more.' Denise noted sympathetically: 'There are obviously a lot of other circumstances as well'. Lorraine replied: 'Mum's got cancer – she has finished her chemo and is in remission. Rebecca's looking after Mum and contributing to the household'.

Miriam asked Rebecca if she had a lot of debts to pay off as well. Rebecca responded, 'Yes'. Denise, once again sympathetic, commented: 'I wouldn't want to put more pressure on you than is justified right now. In the meantime, we know Margaret is being cared for. It is not our intention to make things so hard'. Miriam asked, 'How would you monitor that?' 'The \$10?' asked Rebecca. 'Especially if circumstances change. Mum's 76 and Dad is 84', explained Lorraine. Laurie stuck to her guns. 'Is \$50 unreasonable? You don't pay rent or groceries. \$10 does not seem a large amount. I feel it will take forever to pay it back. It's important that something is worked out', she declared. Miriam asked Laurie what she thought was reasonable. 'I don't think \$25 would be unreasonable.' Laurie asked Rebecca if \$25 was unreasonable. Rebecca responded 'No'.

Lorraine once again spoke for her sister. 'This isn't Rebecca's only debt.' 'Is anyone helping Rebecca with budgeting?' Miriam noted that Rebecca was having counselling for the gambling. Rebecca explained that this was two-weekly, but that she had not been for the last two months due to her mother's deteriorating health. 'Is

it reasonable that Rebecca has budgeting help?’ asked Laurie. Valda asked if that was her recommendation. It was. ‘Who’s going to monitor this?’ asked Miriam. ‘Don’t the courts do something?’ queried Laurie. Valda explained that it depended on the circumstances and what was wanted. ‘I would like to recommend that Rebecca gets help with budgeting so that she...’ Valda interrupted: ‘Rebecca is already going to Gamblers Anonymous on her own initiative. That could be an outcome’.

Miriam brought the participants’ attention to the possibility of a prison sentence, suggesting that there needed to be very clear recommendations arising from the conference. ‘I don’t think prison would be very helpful. She’d get no money. Margaret would get nothing!’ was Laurie’s contribution. Valda asked Denise to confirm that she did not want Rebecca to go to prison. Denise did so. Laurie continued on this theme. ‘It won’t serve any purpose. Rebecca knows what she’s done. All we want to see is Margaret reimbursed.’ Denise agreed that \$25 per week was more appropriate and that it should be increased as circumstances permitted. She wondered if it could be paid in three years. Miriam tried to get the weekly amount and the amount of the increase specified. This proved to be difficult because they did not have all the facts, apart from Rebecca having commitments to her family. ‘Ultimately it’s out of our hands’, Denise commented.

Laurie was clearer about what she wanted. ‘If I was being vindictive, I’d say “prison”. If we take away from her benefit what she took from Margaret’s, \$10 is not enough. \$25 as a start until it can be increased to \$50 per week. Someone should monitor this.’ Denise tried to show that they understood hardship. ‘We’ve been in circumstances when we had no money, nowhere to live.’ Laurie again focused on specifics. ‘I think you need help to achieve it, through having a structure.’ They agreed that Gamblers Anonymous would help provide some form of structure to Rebecca’s life.

Valda asked Lorraine if she had any ideas. Lorraine responded: ‘I can understand that \$10 is insufficient. My feeling is that the repayment can’t be increased to \$25 per week. The suggestions about counselling and budgeting are very good. Excellent. The support from Gamblers Anonymous is also very good. I think she should just increase the repayment rate as circumstances change. We all have times when we are up against it’. ‘Are you suggesting that \$10 is all she can afford at the moment?’ asked Miriam. ‘It depends on the budgeter’, replied Lorraine. ‘I’m just a bit wary about her becoming over committed.’

There was further discussion about the frequency of counselling, budgeting, and who should take responsibility for monitoring. Rebecca agreed to take responsibility for contacting a budgeter, preferably before sentencing so that a regular repayment could already be organised. Margaret’s sisters said that they would carry out monitoring of the repayments by checking Margaret’s bank statements. If payments stopped, they would notify the Court Registrar. Although Laurie preferred the monitoring to be done by a third party, it was suggested by Valda that this could be carried out later on. John wondered whether or not it was possible to take, as security, someone’s car, until the debt was paid. Valda asked Denise and Laurie how they felt about that. ‘It’s an option’, Denise replied.

Cynthia felt that a definite court order might be appropriate. Lorraine asked if this was arranged through a probation officer. ‘It’s a pity we have no probation officer here’, commented Valda, ‘especially when there is no police representative present. The good thing is, with no malice intended, to find a solution. I’m hearing Cynthia who wants some assurance that monitoring happens. We could note your concern in the report. The judge might issue a court order. We should note that you’re not in favour of a prison sentence, but that you see the court order as extremely important’.

Miriam noted agreements on the board, and checked that the group agreed that, when Rebecca was able to, she would commence payments at \$25 per week. John calculated that at \$25 per week it would take over five years to pay off. Lorraine presented what she saw as the only other alternative: 'She can go to prison and not pay anyone else'.

Miriam summarised the recommendations for comment on completion and accuracy. They agreed to leave the reparation payment at \$10-25 per week according to Rebecca's means. Rebecca confirmed her agreement. Miriam reminded those present that the judge was not compelled to adhere to the recommendations of the conference. 'It is up to him.'

Rebecca once again thanked everyone present, saying: 'Certainly, I want to pay back the money. I'm so sorry for what I've done'. Valda then declared 'that calls the meeting to a close. It's been a privilege to be involved...I will keep you informed about sentencing'. She thanked all for coming, noting that Margaret had asked to spend some time with Rebecca. As the others dispersed, Rebecca went across the room to Margaret and sat beside her. Their closeness and ease with each other was obvious as they sat together over a cup of tea. Before they left, Laurie and Denise approached Rebecca and hugged her.

After the conference...

The idea of a conference was welcomed by Rebecca, who said that she had 'always wanted to see' Margaret and apologise to her for what she had done. She could not think of another way of achieving this. Rebecca had felt pretty satisfied with the way she had been prepared for the conference, but still felt a little in the dark, which she had explained as 'the fear of the unknown'. She felt the objective of the conference had been to get the victims and offender together to work out a better way of dealing with things. It would serve no purpose if she went to prison; she could not pay the money back. At the beginning of the conference, she felt a bit apprehensive, especially when she saw John. Miriam had, however, explained that he was unexpected. 'I wanted to see Margaret and give her a cuddle. It's hard to see why I didn't go and see her straight away.' Of meeting Margaret's sisters, however, Rebecca stated she felt scared and, when faced with them, she didn't really feel prepared for that. 'I knew what I had to go through, though.'

At the end of the conference, Rebecca said that she felt good. She found the meeting very rewarding, but draining. 'A lot of healing went on there too. To have that time when I could sit by Margaret by myself was wonderful.' She valued the change in Margaret's sisters. 'It was good...that they could look upon me, come up and hug me, saying "everything's alright".' She felt the conference had been well done and was pleased with the whole thing, especially the fact that there were no arguments. She had 'got what she wanted to say out', and only felt uninvolved when the other matters between Margaret's family and Cynthia were discussed. Rebecca found Lorraine's presence helpful, especially when she explained Rebecca's living circumstances. Rebecca found the plan very constructive – she had never thought of seeing a budgeter, and welcomed the idea of belonging to a support group for her gambling addiction. The only thing she was not too sure about was the court order. She was very much in favour of restorative justice. 'I think it's a wonderful scheme and, if it can help others as much as it has helped me, I think it should be used, if all parties are willing.' She would 'most definitely' recommend the process to others.

Lorraine considered the restorative justice conference to be 'very instructive' with 'everybody who attended coming away with something positive. It was very moving in parts and was handled reasonably well by the facilitators'. She questioned, however, the number of people present, referring particularly to 'those with other agendas'. She also felt it was unbalanced. 'Six versus two was very confronting and, at some stages, unfair...At times, it felt

like dogs fighting over a bone. I came away still angry, but on reflection I think my sister found it very therapeutic.’ Although there was equal opportunity for them to speak, with so many present it became exhausting. This was where she felt the process became unfair.

Laurie had been given a booklet before the conference and Miriam had gone over the process with her. What she felt unprepared for was making shared decisions at the conference when she had not conferred with Denise, who lived out of town. One week was not enough time between getting the letter and attending the conference. She found that this time was fully occupied telling Denise about restorative justice, while, at the same time, dealing with her own misgivings. The face-to-face meeting provided them with an opportunity to discuss what had happened. ‘I had a lot of anger in me, but after the meeting I changed my views a bit, seeing her in the flesh. Her face changed what I wanted to say – she explained; I sort of backed off. I felt a bit sorry for her.’

When Rebecca walked in at the beginning of the conference, Laurie said that she felt ‘awkward’. There was an uncomfortable silence. She felt more relaxed at the end of the conference. ‘We’d worked through some things, felt a bit more comfortable with it...we actually did hug each other. I went to say something to her and she said “just don’t say anything”. She put her arms around me. It was like words weren’t necessary. I walked away and left her space to talk to Margaret then.’ While Laurie didn’t say everything she wanted to say, she found the points written on the board helped her to think before she spoke. She had been concerned she would get ‘carried away’. She felt Cynthia had been a ‘wee bit over the top’ pushing the fact that they were victims too.

Laurie did not feel that Rebecca had explained the circumstances of her offending as much as she expected, ‘but she was under a lot of pressure as well’. She was not sure whether Rebecca had been made accountable at the conference, even though she had admitted what she had done, and had apologised. Because Laurie found it hard to accept that she was really sorry, she only partly accepted this apology. She acknowledged that Rebecca had a large number of personal problems, but did not regard these as sufficient excuse to do what she did. Laurie said that it was useful having her sister and brother-in-law at the conference. ‘She keeps me on the straight and narrow – we see things differently, my sister and I.’ She felt generally satisfied with the plan, considering it a ‘better alternative than jail’. Her needs were met at the conference, and she gave the example of being allowed to have ‘a little cry’. Overall, she felt pretty satisfied with the conference, and supported the idea of restorative justice conferences. ‘I think they’re helpful. I was quite angry beforehand, but after I felt a lot better about it. When you sit there and talk about it, it’s different. I came away feeling less stressed about it.’ She said that she would possibly go to another conference if she were a victim, depending on the circumstances. ‘It was worth doing.’ However, she added, ‘there is an impression it’s an alternative to having to pay. The final say is not ours’. As an agent for Margaret, Laurie noted a disparity in the restorative justice documentation, which stated that, if the offender were disabled, there would be no conference. She asked, ‘What about the victim who is disabled?’

Denise considered she went to the conference totally unprepared. She was not quite sure what information they could expect to have prior to such a meeting, but it would have been nice to have some more background information. Denise felt quite wary at the beginning, not sure how people would react. She was conscious that she and her sister Laurie came from two very different perspectives, and she was not ‘looking for’ any family conflict. She felt comfortable about meeting Rebecca, whom she had met once but could not remember. She was unhappy with the situation and the way it had been dealt with; the lack of information and contact from the institution had ‘bugged’ her. However, she felt the conference went well. The ‘other factors coming in from the third party’ were disturbing, however. She noted also how good it was for Margaret to meet Rebecca again.

She regretted not saying more at the conference and the fact that at times it seemed to get off the point. She chose not to say how the offence had affected her; that was not important. Denise found it difficult to assess whether or not Rebecca could make up for what she had done. She noted Rebecca's difficulties in repaying the money. The plan, she felt, was constructive, positive and achievable and it gave some direction to Rebecca. The best part of the conference was meeting Rebecca; the worst part was the fact that it had to happen. She also said that the conference arrangements would have been improved with a table and with tissues being available to participants. Although she had not had a lot to do with the criminal justice system, she had heard of restorative justice conferences before and considered them a good idea. Having been to one, she would now definitely recommend them to others. She also thought that she would attend another restorative justice conference, provided it was not for a violent offence.

John commented that they had not expected to be making decisions about outcomes at the conference. He felt time to consider these before the conference would have helped them. He felt too that the conference was unbalanced in terms of numbers. He had gone to the conference with an open mind, and was quite conscious of being the only male present. 'If Rebecca had had a male relative support person, it might have made it easier for her.'

Cynthia found the conference extremely helpful for Margaret's family and for her business. She felt that Rebecca had handled it extremely well, that it was well run, and that the facilitators had put them all at ease. Margaret was her main concern. She appeared to be very sorry for Rebecca. Notwithstanding this, she felt Margaret had handled the conference very well, and enjoyed talking to Rebecca. Another concern was that the judge would not consider the conference outcomes, which could lead to 'revictimisation for everyone'. Cynthia also commented: 'I did not feel comfortable with the discovery that we had to come up with outcomes...It's a matter of reporting. If a term of imprisonment was made, then the court has an obligation to victims of crime to report back to them, instead of them going to court to hear the rationale for sentencing'.

Marion considered the conference had been well organised and set up. The facilitators were very good, and the outcome, positive. Although her concern was protecting Margaret, she considered Margaret had benefited from seeing Rebecca, her family and having a cup of tea with them. The person likely to benefit the most was Rebecca, she declared, noting that a lot of trust had been put in her for a long time. Marion had a slight concern that Margaret felt that she was the one who had done something wrong.

Prior to the conference, Valda worried about Margaret's understanding of what they were attempting to do. The additional issues relating to the compromised situation which Cynthia and Marion found themselves in highlighted the need to ask how the court system managed these issues. Less significant concerns were ensuring that the major parties were not forgotten in the process.' 'It's important to hear each person as they work through their fear and insecurities regarding the process. Valda found that the participants 'stuck to their pre-conference agreements... they were respectful of the process'.

For Valda, the success came after the conference. 'The restorative justice process facilitated an ongoing relationship that needed some healing work outside the forum. I think that both Miriam and I worked well together and did a good job. It was a very fluid process. Fluid in that everybody was comfortable, respectful and felt safe, including the facilitators.' She then spoke of the meeting between Margaret and Rebecca after the conference. 'After the conference, there was an opportunity for Rebecca to give her apology to Margaret in another way...privately, so an opportunity for some quiet time was created for them.'

Miriam was very mindful that this was her first restorative justice conference as a co-facilitator and was quite nervous. She found Valda's arrival at the time set for the beginning of the conference disconcerting. She also had concerns that one of Margaret's sisters might present some difficulty. Miriam had little concern about Margaret who was just looking forward to seeing Rebecca again. She was well supported by her carer. Miriam found it really interesting working with Margaret, whom she described as 'so peaceful, just letting it all happen'. Miriam felt that the sad thing was that the sisters were going to take Margaret away from the institution she'd been in for so long. 'You could see it was sort of a family – there were nice relationships between staff and residents.' As a 'first-go' at conducting a restorative justice conference, Miriam felt really pleased with how it went. All people cooperated; the sisters were clear about what they wanted. 'I feel good about the whole thing', she concluded.

After the sentence...

Rebecca was sentenced to two years supervision, with a special condition of attending a weekly group meeting, and to pay (by court order) reparation at \$20 per week. This was to be passed on to Margaret, until \$6800 was repaid. The judge made no reference to the restorative justice conference or to the reasons for this sentence.

Rebecca considered the judge's sentence was very fair. 'I was just so pleased it was over', she commented. The experience had made her more positive about the criminal justice system, a system she hoped she would never experience again. Lorraine considered that Rebecca received a just sentence when taking into consideration all the mitigating factors. Rebecca was trying to move on with the family supporting her 'every step of the way'.

Laurie learned about the sentence after she called the court. She considered the conference report had impacted on sentencing, because the weekly payments had been increased and were to go through the court. The counselling, which the family had asked for, was made a special condition. She still considered Rebecca's payments to be quite low, but understood Rebecca had other commitments.

Denise did not know what the sentence was before her sister, Laurie, advised her. She felt the court had considered the conference report because Rebecca had not been sent to prison. She thought the sentence was moderately fair. Her last word was that there needed to be some research on why people got themselves into such situations. John echoed Denise's view, although he remained concerned about the length of time it would take for Rebecca to repay Margaret.

Although Cynthia received no 'official' information on the sentence imposed on Rebecca, they heard about it second-hand from Rebecca's family. Cynthia thought the sentence was quite fair. In fact, she was really pleased that the court agreed to do what the conference had wanted, particularly the court-ordered reparation, which was enforceable. Probably the most positive thing was that she had heard that the judge had taken into account what had happened at the conference.

Marion felt the sentencing outcome was appropriate. 'We all agreed at the time that a prison sentence wasn't going to do any good.' After a little more thought she added: 'I'm aware that assets like her car should have been sold up. I thought this after the conference. I think it is possible some of the money went on car payments, although I don't know.'

Valda thought that, under the circumstances, Rebecca's sentence was a 'fair call'. 'It'll take a fair while to pay the money back, and that's the only thing I feel critical about. However, if we're hard hitting, that's not our problem. It's the victim who is suffering, and she is getting older.' Her final comment was that Rebecca would have learnt something from the process.

Miriam was pleased with the sentence. She said that, at the break during the conference, she had suggested to Rebecca that she double the repayments, as \$10 per week did not seem likely to satisfy the sisters. Rebecca had been unwilling to make that undertaking. The judge, however, had done it for her, and a follow up call to Rebecca had shown that she also was very happy with the outcome. 'The good thing about the conference was that they all had a voice.'

Twelve months later...

Rebecca recalled the conference immediately and said that what she remembered most was 'being able to speak to Margaret and apologise for what I had done.' She was very satisfied with the conference and the agreements. She thought that conferences benefited both offenders and victims. She was also very satisfied with the sentence: 'I thought I was going to get worse; I thought it might be imprisonment. I was very lucky'. Rebecca was very enthusiastic about restorative justice conferences – 'I just had a wonderful experience with it' – and would 'most definitely' recommend them to others. Although she said that she would attend another conference if she reoffended, she added 'but I won't be'. Rebecca also felt more positively about the criminal justice system as a result of participating.

Denise found the restorative justice conference hard to recall but remembered the emotion of it and then added: 'I wish I hadn't been there. I felt it was a bit intimidating for everyone'. However, she was very satisfied with the conference overall and did not see the conference as primarily benefiting either the victim or the offender: 'in a way it should benefit both'. Denise was reasonably satisfied with the plan but was not sure if all of the agreements had been met (for example, the agreement to attend Gamblers Anonymous meetings and to get budgeting advice). Reparation, she said, had only been partly paid, but it was being paid regularly and on time. Denise was very satisfied with the judge's sentence and felt more positively now about both the offender and the criminal justice system. Restorative justice conferences, she described, as 'probably a positive move'. However, she was unsure about whether or not she would recommend conferences to others and said that she would attend another, depending on the offence.

Laurie also found the restorative justice conference hard to recall but remembered most the blackboard with the guidelines on it and, in particular, the rule about respecting other people's feelings. As it was put on at the last minute it made her hold back. Laurie felt reasonably satisfied with the conference overall, but agreed somewhat that conferences were designed primarily to benefit offenders. She felt that her experience would have been improved with increased communication. Laurie was only reasonably satisfied with the agreements because they were not kept informed about what was happening. She was also only reasonably satisfied with the judge's sentence, but did not say what would have been better. Overall, Laurie felt much the same about the offender and the criminal justice system. However, she thought that restorative justice conferences 'have their place, depending on the crime'; that she would recommend them to others, and that she might attend another one, depending on the type of crime.

Case Study G

The offence at the focus of this conference was careless driving causing injury. The offender was a young man named Tim who was driving home after visiting friends. It was a wet night and he took a corner with too much speed causing him to cross the meridian line and to crash into an oncoming vehicle. The vehicle's occupants were an older Belgian couple, Petra and John. Petra sustained injuries, which still affected her at the time of the initial interviews. At the pre-conference meeting with Petra and John, they said they wanted the conference 'over and done with as soon as possible' and reparation for their out-of-pocket expenses. Tim also wanted the conference to be held as soon as possible. He also expressed concern about not being given diversion by the police. He said that he was given the impression that if he and the victims had met earlier to discuss reparation, then he could have been diverted. This case study looks at how restorative justice conferences can provide an avenue for sorting out reparation informally. Both parties involved in the conference felt frustrated that they were bound within a criminal justice system. It seemed to forbid them from contacting each other independently. Coming to the conference enabled them, albeit after a long wait, to talk about what happened and to sort out reparation: something they both wanted to do by themselves and which, in part, they achieved. The lead facilitator was Robin, the co-facilitator, Paul.

At the conference...

Robin confided beforehand that he was anxious about how the conference would go because of Tim's confident, almost cocky, nature and his belief that he was not at fault. Robin worried that Tim would dispute the facts as set out in the police Summary of Facts, despite being instructed otherwise. This might not bode well for a positive resolution.

Tim and his father, Robert, arrived first. Tim was very confident and adamant that he wanted his father to keep out of the process as much as possible. He wanted to handle the situation in his own way. Petra and John arrived on time and, after being welcomed by the facilitators, were approached by Tim. He shook hands with them, introduced himself and Robert, and apologised for the accident. His manner was very forthright.

Robin opened the conference by asking everyone to introduce themselves. He seemed somewhat flustered by the turn of events he had just witnessed. The atmosphere was light and a few jokes were made. Ground rules were read out and written on the whiteboard with special emphasis being placed on the first one – 'no arguing'.

Paul read the Summary of Facts and Robin asked Tim if he agreed with them. He said that he did. Robin then asked him to explain what happened. Tim talked about how he came to be there and what he remembered of the accident, which was very little. Tim acknowledged that everyone had been affected, suffering some trauma and injury. This had been playing on his mind.

Petra then began to tell her story and to explain how she had been affected. She said that she had seen the oncoming car and that, in the next minute, heard a horrible noise. Then she noticed a terrible pain and the fact that she couldn't breathe. 'I thought I was going to die'. A discussion then followed about the injuries everyone had sustained.

John went on to talk about his driving habits and how they had changed as he had grown older, seeking to make a connection with Tim. He also talked about how the particular corner was known to be a place where other accidents had occurred. He then told Tim: 'I have absolutely no animosity'. Petra commented, however, that they were lucky that they had been in the Ute and not in the Prelude. They would not have survived the crash if they'd been in their other car.

At this point, Tim talked about how he wanted to sort it out straight away, with just the three of them. He described being thwarted in his efforts to do so by the police. John also had the same wish and said that there should not be barriers to communication. It had all taken so long.

Robin brought the parties back to the purpose of the conference and asked what it would take to make things right now that everyone was at last together to sort it out. John repeated that he had no animosity. All he wanted was payment for the car, which was not insured as it belonged to his son, now living in Australia.

The discussion returned to the late timing and formality of their meeting. Robert explained how there was a legal process to go through which could not be circumvented. He then talked about his recollections of the road and his puzzlement that his son would have not seen the oncoming lights. He also expressed interest in the restorative justice process.

Robin did not follow this up, instead suggesting that everyone move on and look at some outcomes after the break. At this point, Tim, very forthrightly, said: 'How about John and I discuss figures over the break'. John agreed. Despite a few raised eyebrows, Robin quickly collected himself and said 'OK', calling a break. John and Tim went off to discuss the cost of reparation while the other participants had a coffee and a chat.

After ten minutes, the conference was reconvened. Robin asked what decision Tim and John had come to in their discussion. John said 'I absolutely want no harm to come to him and for him not to lose his license. We've also agreed that Tim will pay us \$6500.00. This should have happened four months ago!'

Robin checked whether or not an apology had been forthcoming, noting the lack of ill feeling between Tim and John. Robert also acknowledged that both Tim and John realised that it was an accident.

The talk then turned to method of repayment. Tim said firmly that this could be discussed between John and himself. Robin reminded Tim that if it was not sorted out here and now, the judge would decide. This might not be in the best interests of either party. Tim suggested a rigorous but not very realistic payment schedule, given his ability to earn the money required. It was obvious that John and Petra were motivated in assisting Tim as much as possible to repay them the money in a way that was manageable for Tim. They tried to reduce the amount he would pay on a regular basis. John said, 'We are only here to help him, he is only 19'. Robert was also anxious to get the repayment schedule clear especially for the judge. He suggested to Tim that it was better to be clear and specific, rather than being lax about what would be paid when.

Robin asked Robert if he was willing to supervise the repayments and to be accountable to John and Petra if things went wrong. Tim told Robert that he did not want to be paid out. Robert suggested to Tim that he might not want to pay at some point. Things can change. Tim replied that he had a moral obligation and

suggested that he would rather it be between himself and John first. If John and Petra had a problem with him, then they could then contact 'the old man'.

The agreements were written up on the white board and checked for accuracy. These were that Tim apologised to John and Petra, that all parties recognised that what happened was an accident, that John and Petra felt no animosity to Tim and did not want him to lose his licence or have a criminal record, and that Tim would pay John and Petra \$6500 at \$100 a fortnight, going up to \$200. Tim would pay \$50 immediately. It was acknowledged that this reparation plan was subject to Tim not losing his licence as this would affect his income. Robert said he thought the agreements were good and he agreed to monitor their completion. Robin asked whether or not everyone was happy. They were. He then thanked everyone for coming and closed the meeting. There was some discussion about the conference among the participants for some time after this. Then Tim and John exchanged telephone numbers and shook hands before everyone left.

After the conference...

Tim said that he felt a little nervous about meeting John and Petra, but that he did not really have anything to worry about. He wanted to show them that he meant well right from the start, which is why he approached them when they entered the room, shook their hands and apologised. He was anxious his father might undermine him and reminded him several times before the conference to keep quiet. Tim was adamant that he would handle this like a man.

Although Tim didn't feel completely responsible for the accident, he was prepared to take responsibility. He felt that he was in a more precarious position, being a young male driver. Because of this he felt singled out by the police and saw this as playing against him. 'Who's going to believe me over them?'

He was really pleased to meet John and Petra. He felt that he and John got on well and that they were really nice people. He said that he did not want to discuss reparation with everybody. He wanted to do it man to man. He insisted he was an adult now and thought that the process was a bit 'namby pamby'. He felt that the cost of the reparation was too high, even though he did manage to get John to agree to a lesser amount than was originally asked for, but he was happy to accept the consequences for what had happened. He thought the conference went well, but considered it an unnecessary waste of time for everyone when John and himself could have resolved things between themselves and much more quickly.

John and Petra went to the conference to meet Tim to finally get things sorted out. They were not there to blame anyone and were just glad that finally the thing would be resolved. They did not see Tim as 'an offender', but rather as just 'the victim of an accident', which was not uncommon on that bit of road. John said that 'we just wanted to help the boy. He didn't need a conviction hanging round his neck for the rest of life over something he didn't mean to do'. On the other hand, although she conceded that it was an accident, Petra reminded him that it could have been worse. She was still suffering from the injuries she received. She did not blame Tim either. However, they did hold Tim completely responsible for the accident.

John and Petra were happy with the outcome. John said that he understood and empathised with Tim's need to talk man to man with him when working out the reparation. John thought that the process was 'a bit touchy feely' and they both reiterated their frustration about not being allowed to sort this out on their own sooner. They both also thought that restorative justice conferences were a good idea and could see their value for other types of cases or people.

Robert attended the conference at the last minute. Originally, Tim's grandfather was to have gone, but because Robert was in town, he was able to go. He did not have much opportunity to prepare himself or to talk to Tim about what he wanted, but he went along with no preconceived ideas or expectations. Tim just wanted him to be a support person. Robert had mixed feelings about the conference. He thought that it was good for the victims to be able to tell their story and he liked the flexibility of the process which allowed Tim and John to discuss reparation in their own way. But he thought that the conference allowed his son to think he was getting off lightly. The payment of money for damages was not a real inconvenience, whereas losing his licence would have been. Robert was not happy about his son's driving and he would have liked a more severe penalty imposed so that Tim would 'think more seriously about his driving'. It didn't help that Tim couldn't really remember the accident and his part in it. Robert was glad he went along and experienced a different way of doing things, but he was not convinced that a conference had enough impact for an offender to make them think about what they have done.

Robin felt quite anxious about this conference. At the pre-conference interview with Tim, everything went smoothly until, at the end, Tim said: 'Don't worry, I know how to play this'. This set off alarm bells for Robin and made him think that Tim was going to the conference for what he could get out of it rather than because of a genuine consideration for the victims. Robin almost considered putting a stop to the conference right then. But because the victims really wanted to meet Tim and had said that they would not be steamrollered into anything and that a conference was the best outcome for them, it went ahead. Robin was also concerned about the difference between what Tim and Petra and John thought the reparation should be.

Robin was amazed at how well the conference went, and relieved. He had not anticipated that Tim and John would want to discuss reparation outside of the support networks which had been set up in the conference and was reluctant to let them discuss reparation outside of the process. He was worried that control would be vested in Tim. However, he allowed this discussion to go ahead because John wanted to. He remembered that John had said that he was not going to be steamrollered into anything. He was also aware of John's frustration at not being able to be in contact with Tim before then and his willingness to meet Tim in a supportive way. He was glad that John and Tim decided the overall agreement amicably. This is where he anticipated problems. The details as to how and when reparation was to be paid were able to be clarified at the conference so that they could be taken seriously by the judge.

Robin was also pleased that Tim's father would be monitoring the repayments. Robin had been caught out at other conferences when he had offered to monitor reparation and it had not worked. He was glad that the police were not there as both victims and the offender were frustrated with the police.

Paul also had a slight niggling worry about Tim and his motivation. However, he thought the conference went really well. Like Robin he was concerned when John and Tim left the room to negotiate on their own. He was worried about safety, but relaxed when he noticed Robin checking on them every few minutes. He had no opinion about the outcomes. He said the main thing was that the victims and the offender were happy with them.

After the sentence...

In his subsequent court appearance, Tim's charge was reduced from careless driving causing injury to careless use of a motor vehicle. He pled guilty to this. The reason this happened was, in the judge's words, 'to do justice' between Tim and the victims. The judge further explained that if the charge had not been reduced, Tim would have been subject to mandatory disqualification and this would have prejudiced his ability to pay

reparation. The judge expressly acknowledged that Tim and the victims had benefited from a restorative justice conference and that the victims did not want Tim to 'suffer punishment through the courts. Their priority...is to obtain reparation for their losses'. The judge accordingly dealt with the matter in that way and ordered Tim to pay reparation of \$6,150.

Both Petra and John were happy with the sentence Tim received. They felt that their feelings and thoughts had been taken into account, and were happy that Tim had not been convicted of careless driving and was only ordered to pay reparation.

Tim was happy that the careless driving conviction was overturned and that all he had to do was pay reparation as agreed at the conference. Robert, on the other hand, was not pleased that Tim was not made more accountable by the judge for his driving. He said that he would have liked a sentence which recognised his son's bad driving to make him think about it more deeply. He felt reparation was easily paid and that too many people think that they can just pay their way out of situations. Robert said that this does not help offenders really think about what they had done.

Robin thought that the sentence was very good: 'the best that could have been expected'. He was more than happy and pleasantly surprised when the judge threw out the charge and asked the police to come up with the alternative of careless use.

Paul was blown away by the judge's decision. He said that this particular judge is known for being punitive with his sentencing. It was a real coup that the conference outcomes were taken into consideration.

Twelve months later...

Tim seemed to have some reservations about the conference twelve months later. The thing he remembered most about it was what it had cost him financially and he believed he had paid too much in reparation. Indeed, he said that the amount of reparation he had to pay made him regret taking part in the conference. Paying it had been difficult. On reflection, he was very dissatisfied with the plan. He also saw conferences as designed mainly to benefit victims. He felt that conferences could be improved for offenders by allowing their lawyer to be present. He added that, in this case, this had not been allowed. On the other hand, he commented that it was good to have met the victims and to have sorted things out. Overall, he said that he was reasonably well satisfied with the conference. He also said that he was pretty well pleased with the sentence since he did not lose his licence because of the change of charge. Tim was still paying reparation when he was re-interviewed but he expected to complete this shortly. He said that he had not reoffended since the conference or court appearance, but he did not attribute this to anything that had happened in the conference. He felt much the same about the criminal justice system, thought conferences could be useful in some circumstances, and said that he would recommend them to others and might go to another one himself if he reoffended.

Petra and John were much more enthusiastic about the conference and said that they had found it very constructive. Overall, they were very satisfied. However, they also said that they totally agreed that conferences were designed mainly to benefit offenders and not victims. They were concerned here that important decisions were made after the conference which they were not consulted about. Indeed, this lack of consultation and the fact that decision-making was taken out of their hands made them regret taking part: 'the conference was good, but the follow-up needs to be as good'. John and Petra were also concerned about the time and energy it had taken them to get the reparation. They added that Tim's father had been meant to monitor the payments but he had not done so, even after they had contacted him: 'it took months for payments to start'. As a result, they

became frustrated, upset and annoyed. Indeed, they now said that they were very dissatisfied with the plan: 'whatever agreement is arrived at, follow-up, information and consultation with the victim needs to be massively improved'. Petra and John said that they still thought about the offence weekly and still gave it the highest rating in terms of the impact it had had on them. They described it as only partly behind them: 'because a head-on collision is so traumatic, you find yourself seeing it in your mind'. They felt this would only improve with the passage of time.

Overall, Petra and John said that they were reasonably well satisfied with the sentence. They also said that they felt much the same as before about the criminal justice system. They would not, however, recommend a conference to others or attend another themselves because the experience post-conference was 'so poor'.

Case Study H

This conference concerned criminal harassment. The offender, Ranjit Singh, was in his early 50s and the victim, Amreek Singh, was in his early 40s. They were business partners but, due to a number of factors, their business venture failed to prosper. Ranjit felt he had been let down by Amreek, a wealthy businessman. Ranjit, by contrast, had been a schoolteacher and, accordingly, did not have the same means. The business failure had had a big impact on him and on his prospects as a new citizen in New Zealand. Efforts between Ranjit and Amreek to come to a resolution about a better understanding of the failure were unsuccessful, and Ranjit became increasingly depressed and unwell. While in this state, he sent some malicious letters to Amreek and his family over the period of a month. Amreek and his family found these disturbing and reported the matter to the police. Notable characteristics in this case study are the fact that the victim and offender are both Sikh, the cultural adviser took an active role in the process, a pre-conference meeting (observed by one of the facilitators) was held between the parties about fiscal matters and, finally, Sikh justice principles were to some extent incorporated within the New Zealand criminal justice system.¹ The facilitators were Linda (lead facilitator) and Hannah.

Before the conference...

Ranjit's lawyer told him about restorative justice. As soon as Ranjit heard about it, he decided it was a good idea. He and Amreek had been good friends as well as business partners, and this had caused an 'escalation of emotion'. The situation was not easy. He said: 'Initially the police were making it difficult. I became depressed and I needed to talk it through with him [Amreek]. I made approaches to others to mediate but no one was interested'. Amreek, on the other hand, did not know whose idea it was to hold a restorative justice conference, but agreed to it because he didn't feel he could refuse to go.

The preparation for this conference was unusually complex. First of all the facilitators, Linda and Hannah, sought the assistance of a cultural adviser, Harbhagan Singh, who was familiar with working with the courts and the police, as well as in a confidential environment. Harbhagan accompanied the facilitators at each pre-conference meeting. It became clear during the pre-conference meetings that there were four key matters to take

¹ We were informed that, if this matter had been dealt with under the Sikh system of justice, it would have been brought before five Sikhs who would have looked at the whole situation (including the offence and its emotional consequences) after they had taken an oath that the decision made would be confidential and neutral. All information (especially summaries of the events prepared by the victim and offender) would have been accepted by them, and an assumption would have been made that the offence was admitted. Before considering the participants' accounts of the events, the five Sikhs would pray for guidance to make a fair decision. The Sikh Scriptures 'Sri Guru Granth Sahib' would then be used for 'Hukamnama', a Persian word meaning a royal decree. In the Sikh context, this is considered the Guru's words of wisdom for the day. Sri Guru Granth Sahib is opened randomly to any page and the Shabad Guru (Guru's words) on that page becomes the day's 'Hukam' or command. This is important to Sikhs because 'Shabd' 'cuts away the ego that occludes the truth'. The Scriptures are used by Sikhs to tune into the 'Infinite Intelligence and Cosmos', so that the decisions made are in 'all fairness'. In the Sikh system, the victim and the offender each speak to their account of what happened from notes that they may have prepared. The police do not contribute to the process.

into account: the charge of criminal harassment, the emotional consequences of the offending, financial matters relating to the business, and meeting the needs of the Sikh community while at the same time working within the criminal justice system.

It was decided that a special meeting should take place before the restorative justice conference to deal with the financial matters. This would then allow the restorative justice conference to focus on the charge and its emotional consequences. Linda found herself involved in this meeting as an observer. The reason for this was that bail conditions were such that Ranjit was not allowed to associate with Amreek. 'The police would only allow meetings to occur if it was for the purposes of restorative justice, so I agreed to be there. It had been discussed at the pre-conference meetings and was planned for after the conference. However, in practical terms it needed to be beforehand', Linda advised. She agreed to go to the meeting on the understanding that she would only intervene if necessary.

As it turned out, Linda's intervention was necessary at this special meeting. According to her, there was much 'posturing' about previous undertakings about finance, which at one stage were withdrawn as the parties became more 'riled up'. Linda pointed out to them that, if they were able to keep to what they had originally wanted as a settlement, they would both get what they wanted. This was an effective intervention, and both men 'stopped personalising it'. She explained: 'It was only because I had heard both stories from the pre-conference meetings that I was able to pick it up'. Having dealt with the cultural aspect and the business 'special meeting', Linda and Hannah felt more confident about the conference.

However, according to Linda, Harbhagan had a tendency to take over. He 'reiterated everything' that Linda and Hannah said in his own words, but with a slightly 'different complexion on what had been said'. Linda felt he was 'sitting in the judge's seat' during the pre-conference meetings. She felt that they 'had to do a lot of preparation with him before the conference'.

Hannah was less involved in the preparation for the conference than Linda, but she attended each pre-conference meeting, with the exception of the 'special meeting'. She really liked having a cultural adviser in this case. However, she shared Linda's views about his subjectivity. 'He didn't say what he felt but you could feel his view that the victim was a "real bastard". When he met the other party he turned a full 180 degrees!' She thought that Harbhagan's input regarding cultural matters was very helpful, and he was able to verify religious and cultural factors relevant to the conference.

Hannah and Linda did not agree, however, on the issue of attending the special meeting. 'The offender wanted Linda there but I didn't agree. But the cultural adviser and Linda were in favour. If the meeting failed, it was agreed that the restorative justice conference would not take place.'

Harbhagan, in his interview, commented that Ranjit admitted some things and denied others. He also said that he found it necessary to remind him of his culture. 'He then showed he was regretful and said "I want to ask for forgiveness for what I have done". He agreed to do community service at the Sikh Temple.' The cultural adviser recalled how he and Linda had explained that this was 'just a preliminary' and 'not the end of the matter'. He added: 'We made no commitment to him...Then we went to see Amreek, who was hurt in a big way. One to one is bad enough, but getting to children is really bad. Children ask questions about restrictions imposed on their activities. Amreek had produced quite a bit of business and had helped Ranjit. Amreek had got some of his money back in the business. If you don't work in a business you lose money!...Ranjit would not listen to Amreek's advice so he lost money. Amreek agreed to go to the conference. 'I don't want to hurt anyone – I will leave God to decide.' The facilitators had been well organised during the special meeting, according to Harbhagan. 'Full marks to the facilitators.'

At the conference...

Although Linda and Hannah tried to encourage both parties to bring their wives to the restorative justice conference, Amreek came alone. He did not want his wife and family to be involved; he felt that they had gone through enough with the anxiety caused by the harassment. Jasbir Kaur, Ranjit's wife, decided to attend the conference because it involved her husband and it was important for her to be there.

Once everyone was seated, Linda asked Harbhagan to say a brief prayer. When that was done, she thanked them all for coming and explained the procedure, its ground rules and invited questions. Hannah then read out the police Summary of Facts. Linda thanked Hannah and acknowledged that there had been a meeting to address business matters, which left them free to look at the harassment issues.

Ranjit, without being asked to, initiated the dialogue between himself and Amreek. 'Firstly I want to apologise to Amreek. I had been very upset at the time, was sick, getting treatment. In that state of mind, I didn't know what I was doing. When I became stable, I wondered what was happening. I talked to my lawyer to see what could be done. I want to apologise. Some I have done, some I have not.'

Amreek responded quickly. 'Can I ask – some you have done and some you have not? Do you think these are a fabrication?' Ranjit replied: 'There are some people who don't see eye to eye with you'. 'Here or in Hong Kong?' asked Amreek. Ranjit replied 'Both'.

Amreek then advised the conference, 'I don't have enemies. If someone has animosity on their shoulder... Within my circle, I have few dealings with fellow Sikhs. One deal lost money, it worked out, and we're still friends. Beyond that, I do not know of anyone who does not like me'.

Linda asked Amreek if he would like to speak about 'how it was' when he received these letters and emails? Amreek told them it affected his health; he was very worried for his children. Life became very restricted. 'We don't open doors so much.' Linda then asked him to talk about the effects on his children and wife. 'My kids don't know about these things. It affected them psychologically.' The children had opened the letters themselves, which prompted Amreek to alert the school. 'It's affected us very badly, psychologically, mental pain...Disappointment.' He turned to Ranjit. 'Tell me if I'm lying right now!'

Linda asked Amreek if he had any other questions of Ranjit. Amreek replied: 'I've given up worrying about what other people think. I worry about what God thinks and how I feel. I don't care if he [Ranjit] loves me or hates me. I feel very sad for him that he has taken a very stray road'.

Linda turned to Jasbir, Ranjit's wife, inviting her to speak. Jasbir commented, 'I was initially not keen to come to New Zealand. I noticed when the business was going wrong. I noticed a lot of things did not follow up as they were supposed to. Ranjit was unhappy. I said to Ranjit to talk to Amreek...He put forward a case to...I might not have been present at some conversations. As I saw Ranjit get more and more depressed, sick, only the last few months he's much better. For me, it has been a very difficult time watching'.

Amreek had things to say about the way he encouraged Ranjit to come to New Zealand. 'Forcing him to come to New Zealand – No. He mentioned many times he wanted to move; Hong Kong was not his place. We discussed it; we can do business together. I don't agree I forced him.' Jasbir responded. 'No, you persuaded him. When he came, he trusted he would be working alongside you.' Amreek responded: 'Right. I put in a whole lot of my money to start up the business. You don't have to be...a businessman... Before the mess, he's signing all the cheques, along with the day-to-day running [of the business], making decisions; I'm

not sure where. I'm not following up. You cannot say I have not helped, I did my best... You can't have your cake and eat it too. I came only so far to help. If no good, then there's no choice but to go back'.

Ranjit then spoke. 'We have discussed this at the last meeting. We don't want to do it again. I went 50% on blind trust. I came to know how it was structured. I don't want to dwell on that. We were very good friends. Probably in this field, we didn't see things eye to eye. I apologise for any wrong... Others created fear. I only want to remember good things. We went to India together. When he was unwell, I prayed for him. In the dealing, I lost that sight. I want to move forward. The anger I had for six months has gone. When he's in pain, I'm in pain; when he said his family was in pain, I'm in pain.'

Linda asked Harbhagan if he had anything to say. Harbhagan asked Ranjit if others had influenced him in his offending. Ranjit replied: 'In my state of depression, there were many advices'. Harbhagan responded: 'Very un-Sikh!'. Amreek observed: 'In Hong Kong, it never seemed the type of thing to happen'. Ranjit said: 'I saw these things at my house – fear – now, I just want to escape. Whatever has been done, let's move on'. Amreek agreed for the need to move on. Harbhagan expressed his sorrow at what had happened.

Ranjit then suggested he would like the conference to consider his punishment according to the Sikh way. Amreek responded: 'The only person who can forgive you is God. I can't'. Ranjit responded: 'I'm glad the last meetings were very good'. Amreek said: 'At the end of the day, I am a nobody to forgive. I'm not trying to say I'm humble. I'm a good actor and a good persuader'.

Linda then suggested the conference take a break. They had been talking for around forty minutes. Fifteen minutes later, the meeting reconvened. Linda opened the conversation with: 'The purpose of this part of the process is to see what can be done to put things right; to make a plan to put in the report. The judge has to look at the recommendations but is not bound by them. It's an opportunity for the judge to know what you want, Amreek'. Amreek quickly stated that he did not want 'anything bad to happen'. Ranjit said he could write an apology letter. 'An apology letter would be helpful because there's been a lot of muscling in. This is not a demand, just a request', Amreek responded. Ranjit offered to write it at once, and rose to get some writing paper from Hannah. As he did this, Amreek repeated that it was not for him to forgive, and that he did not want any harm to befall Ranjit.

Linda reminded Harbhagan of a previous conversation they had had concerning the process 'in the Temple'. Harbhagan then explained, putting in his own view of things. 'It's very sad. The nature of change would just wipe it away. We need to look at it another way; to look at something realistic and achievable. I don't want to see anyone going behind bars.' Amreek stated: 'In life, when we decide we cannot throw it on someone else, we are not trying to give it to someone else. We are all pawns of God. If He decides, you cannot say "I don't want to go"; it's up to Him'.

Ranjit read his apology letter after seeking the permission of the other participants. He asked if it was 'Okay', and if there was anything else Amreek wanted him to say in the letter. Amreek responded: 'Whatever comes from your heart'.

The discussion then focused on other potential outcomes. Amreek suggested that Ranjit came back to his Scriptures. Harbhagan endorsed this: 'Scriptures prevent you doing something wrong. Amreek turned to Jasbir. 'To reply to you regarding no follow up, you mentioned that I made things up. I did offer... I need to be careful how to say this. I step back very far when we met in the Temple. We questioned each other... Ranjit said when I got a call from Singapore, from the police, there was no further contact.... I was not there for...' He then apologised to Harbhagan for 'butting in'.

Harbhagan replied: 'That's okay. The community thing is very important. Outside [the criminal justice system], we get five baptised Sikhs and they decide punishment'. Jasbir pointed out that the judge had to decide. Linda presented a possible compromise. 'It could be that the judge delays sentencing to allow that to happen... It could put things right for you in the Temple.' Harbhagan had more to say. 'P.D. has been given to people. Sikhs in the Temple could give work to Ranjit. The problem here is that this is in the hands of the court.' Hannah had a possible solution. 'We could put it as an outcome – that everyone would like an opportunity to have the matter dealt with in the Sikh way.' 'Alternatively', suggested Linda, 'the court could give community service to the Temple, then it can be decided by the Temple. How do you feel, Amreek? Do you want both to go in the outcomes?' Jasbir sought clarification on what 'each' comprised. Linda explained.

Harbhagan pointed out the need for the matter not to escalate and 'go into the public arena'. Amreek replied that it would not be good for Ranjit for it to become a public matter. The cultural adviser continued. 'I think that what he does is a type of blessing – three days of reading [the Scriptures]. He covers the cost of that. In himself, he is wanting the blessing and forgiveness of God – an 'Akband Path'. Harbhagan continued. 'We want you to go on the correct path.' At this, Ranjit suggested that Harbhagan and Amreek 'sat together and judged'. Amreek objected. 'No, I can't do that.'

Hannah explored the five Sikhs idea. 'Would it be a problem finding five Sikhs?' Harbhagan explained that finding five in New Zealand that would be able to maintain confidentiality would be problematic. 'It might happen in Hong Kong. We'd have difficulties.' Ranjit suggested that they keep his name out of it. 'They'd need to know all', Harbhagan replied. 'You'd have to find five, one from each Temple. Some might not want to do it. Then the story gets out.' Jasbir asked: 'If you go down this road, does that delay sentencing?'. The facilitators told them they had time without necessarily delaying sentencing. Hannah asked if the judge could be informed what the five Sikhs said? Amreek pointed out that that could mean Ranjit had a double punishment. Linda agreed that the judge had discretion to decide whatever he wanted. Hannah developed this theme. 'We could put it in such a way that, if he agrees with it, it will be five Sikhs; if he doesn't, then he chooses another...'

Harbhagan warned them against setting a precedent. Amreek presented a moderating perspective. 'It's not as though there is a war between us – no spears, no war dance.' Harbhagan thought community service was the best option, and said so. Linda added: 'The court could go to the Temple'. Jasbir was still unhappy about the potential for double punishment. Harbhagan explained. 'In this situation, there would be difficulties as what happens doesn't affect religion. In this instance, this is not the right way. It could lead him to be punished twice. It is a matter between two families.'

Amreek repeated his wish for Ranjit not to have two punishments, nor to go to prison. Finally, it was agreed by most that Ranjit should do community service in a Temple. Amreek maintained his stance that only God could decide.

A discussion then took place about the Scripture reading. Hannah drew attention to specifics like timeframes and monitoring. Harbhagan agreed to monitor this and the community service in the Temple. In conclusion, Linda checked that all present were happy with this outcome, and they agreed. After thanking them for coming, Linda closed the conference.

After the conference...

Ranjit thought that the conference was to provide an avenue for both the victim and offender to meet and talk things out. In his case, there were many talks before the restorative justice conference, 'but Amreek did not want that material to come forward in the conference. Amreek said everything was in his favour'.

Ranjit felt good at the beginning of the conference and on meeting Amreek. 'It was just like meeting old friends again.' The end of the conference was the same. He felt he had partly had the opportunity to say what he wanted to say, because referring to the overall picture would have been 'covering the ground' already addressed in the special meeting. Ranjit considered he was treated with respect and fairness. He added: 'Better than the legal system'.

Ranjit said he was able to understand how Amreek had felt; this had already been discussed at the earlier meeting. When asked whether or not he felt ashamed of what he had done, he replied: 'No. The reason was I only did one or two, but I took responsibility for all so that I could have the meeting. Amreek understands that I didn't send them all. I had given him the names [of others]. Ranjit did not regard the way he was dealt with as making him feel he was a bad person. 'Ultimately, I need to judge my own actions, because there is only one truth, ultimately.' His wife Jasbir had supported him during the conference, and 'it was good to have someone there that I trusted'.

An agreement was reached, in Ranjit's view. 'In this case, because the Sikh process may be incorporated into the Western system, the victim doesn't want me to have double punishment, Western and Sikh.' He was committed to 'going through whatever the Sikh system says'. He stated he did not understand what was agreed to in the plan. He explained: 'I cannot predict how the conference report will depict the Sikh and Western processes combined. This is something that cannot be decided in forty-five minutes'. Understanding the Sikh aspect only, he partly agreed with the plan. 'What needed further discussion was how to combine them. It doesn't make sense to use both.' He did not know whether the plan was better than expected, as he could not see the end result. Notwithstanding these issues, Ranjit was very satisfied that he and Amreek could meet, resolve all unresolved issues and get on with their lives 'so the anger and hatred was just put aside'. Ranjit thought the best part of the plan was that the Western system would come to learn about the Sikh system.

Jasbir saw the restorative justice conference as an opportunity for both parties to speak personally without the presence of lawyers and hidden agendas, and to air what they wanted to say privately. However, she felt very unprepared for the conference. At the beginning of the process, she felt a little apprehensive, and was 'not excited' about meeting Amreek again. At the end of the conference, she said she felt very happy it had been so successful. Her feelings about Amreek remained the same, except for feeling a little better towards him as 'the ice had been broken after one year...and there was some kind of relief, easiness in the heart'.

Jasbir felt involved and understood what was happening. Although she did not feel too scared to say what she felt, she decided against saying some things because they 'might not actually benefit the process and suit the purpose' of the conference. She considered she was treated with respect and fairly. She did not feel ashamed of what Ranjit had done. 'He explained he wasn't guilty of doing everything. It was not the best course of action, but I understand why. It was probably a last resort because Amreek was being very unreasonable.'

She thought that Harbhagan had decided the details of the conference agreement. She understood the plan, agreed with it and thought it was better than expected. The good features of the plan were that it involved a lot of prayer and service at the Temple. 'Whichever part of the offence he had done, this is the best way of repenting...That you made peace with yourself was the main thing.' The best part of the conference was being

able to look at Amreek and for him to look at us and not get angry. Jasbir was very satisfied with the conference and happy with her participation. She considered that her cultural needs were met in the plan and conference as a whole. When asked her opinion of restorative justice conferences in general, she commented: 'I think it's an excellent procedure. More people should be made aware of it. It should be an option to go through restorative justice conferences without a person pleading guilty'.

Amreek, when asked what he thought the conference was trying to achieve, thought that it was to 'minimise the punishment, if I look at it selfishly. If I look at it in a broad band, maybe they're trying to repair damage in relationships'. He felt tense at the beginning of the conference; he did not really want to do it. He explained: 'You're reliving a part of your life you don't want to...I did not want to meet Ranjit, honestly. They say you have to go on with life; my wife and kids are very hurt. Why go after the family? He should have just gone after me'.

After the conference, Amreek felt confused. 'Part of me says he will get off it lightly; the selfish part of me...What are we justifying? Are we justifying the wrongdoing, what me and my family went through? For what he had done, it really makes no difference for me. This letter I needed to deal with muscling in from Hong Kong. What they are saying. I feel that I am the aggressor. They say that I persuaded him. You can't persuade. You can't take things on your own hands. I gave him the opportunity to speak in front of Higher Authority. He lied. He signed a denial of the things he had done in the Temple. When the police proved him wrong, I was totally disgusted. To lie in front of His Holiness...'.

Amreek did not feel involved in the process. 'No, I came here as a body; mentally, I am still confused. My ex-good friend has betrayed his faith. He will clearly have to face the consequences in the Court of God. There was no way he was taking responsibility. He kept saying "I want to get on". What about the victim? My family is still afraid. How can I reverse that?'

Amreek partly understood what was happening, and stated that he was given the chance to say what he wanted to say. He was treated with respect. When asked if Ranjit was able to make up for what he had done, his reply was terse. 'How do you make it up? I spent thousands and thousands of dollars having the matter investigated privately. Dollars? How do you make up the psychological harm? How do you overcome this? There are many 'ifs' and 'buts'!' Amreek was unprepared to make an assessment of whether Ranjit had been made accountable before Ranjit was sentenced. He was also sceptical about the sincerity of Ranjit's apology. 'He has made a human apology. Whether it's sincere and carried out remains to be seen. I'm sceptical since he lied in front of His Holiness.'

There was still more bad feeling from Amreek. When asked if he thought Ranjit understood how he felt, he said: 'He seems to show that he understands, when he talked about feeling the hurt for us. I try to make amends for him. I guided him through the business free of charge. He refused to accept that I had made a genuine overture to him. He chose to go on a campaign of vengeance...My conclusion of this man is he needs help; he shows he is a strong personality, but really he is a weak person'. Amreek had not really gained a better understanding of why the offending happened. 'From what I speculate, he blames me for his situation but he doesn't want to take responsibility for his own self.'

Amreek said he had God there as his support person, and he considered that 'God was very much enough support'. He felt an agreement was partly reached at the conference. 'I got apology letter and permission to show this.' He did not know who decided on the details of the agreement. As he understood it, the plan for community service did not equate with the severity of the offence. However, 'I leave it to God – He has to decide what he or I have done'. He was very dissatisfied with the plan, but repeated: 'I have left it to God.'

Because he used unconventional means to harm another human being, if he recites the Sikh Bible, then he may be able to atone for his soul'. Amreek described what he considered the bad features of the plan. 'To come to the point to this level, and looking at the severity, he should not be able to come to a meeting, have a cup of tea, and feel he's got away with what he has done.' Amreek considered, therefore, the only good part of the plan was the Sikh Bible reading

For Amreek, the best feature of the conference was the fact that there 'seem to be' human beings who were helping others to 'make amends'. The bad features of the conference were as follows: 'If any individual feels they can ride on people's sympathy and get away with it, then it's the saddest thing that can happen'. He felt much the same as far as safety was concerned. He noted that Ranjit '...put a doubt into my head about other people doing it, put a question whether he will do it through other people. Doubt in my family's head; we are always concerned...this doubt means we will never be certain about him. We don't want to associate with him again'.

Amreek would have liked this issue explored more at the conference. When asked how satisfied he felt with the conference overall, he responded: 'Conference as a means, I'm satisfied, but conference because of the many uncertainties I am left with, no'. Amreek considered cultural needs were not an issue in the process, although 'it was flexible enough to meet them'. The plan met his cultural needs as a Sikh.

Asking about restorative justice conferences in general raised an interesting response from Amreek. 'If restorative justice is actually meant to reduce the severity of the offence, then it doesn't work, but if it is a means of breaking a deadlock, then it's fantastic.' He would recommend the process to others, but, if offended against by Ranjit again, he would not participate again. 'If I'm a victim again by the same party, obviously I know it's not working.'

Harbhagan described his role at the conference as follows: 'My role was to listen to them and, if in any way I could help, I would. They asked my advice on cultural things... As a neutral person, I was looking at ways to resolve it for both; and from a community side, what punishment he should do'. To Linda and Hannah, he gave full marks. 'They understood what was going on, they were helpful in lots of ways. They created a comfortable atmosphere, and would ask me what was usual in the Sikh community.' He felt it could have been improved, however, if everyone taking part was privy to the whole story beforehand. More time should have been given to discuss exactly what Ranjit was going to do. He also thought the police should have attended. But he acknowledged the achievement it was for the facilitators to get both men in a room talking to each other. Had they not done so, it would not have been possible to resolve the issue.

He described the type of community service one might find at the Temple: 'Taking shoes at the Temple and cleaning them, cooking, cleaning up, doing gardens'. The Scripture reading should involve reading aloud 1430 pages, in two to three hour shifts. He saw the conference as 'cushioning the sentencing'. As monitor of Ranjit's undertakings, he was less positive. 'I'm not getting any reports from Ranjit. He seems to be shifting from one Temple to another. He can't pick and choose. I'm going to the Temple – I can follow it up there...The Temple is to give me a report of the number of hours. If he doesn't do this, I'll get back to Linda...I don't want to put my name to something that's not accurate. Linda has to explain to Ranjit to take instructions from me. I need to see if I'm happy with what he has done!'

Linda felt the conference was successful. 'Both the victim and offender said they were happy with it. It had been helpful for them, and the same with the business meeting. I got a sense of genuine remorse. At the business meeting, they hugged and had a cup of tea together. Amreek had a couple of things up his sleeve, but he decided he would not use them because he preferred reconciliation. Harbhagan, who had been taking sides

pre-conference, was directive but helpful in the conference. When he talked about Sikh justice and community process, it was really helpful.' She added that he attested to the fact that what Ranjit had done was not normal Sikh practice. She also noted that Ranjit had admitted to some but not all of the offending, because Ranjit had told her he had received some of the letters as well.

Hannah thought the outcomes were 'very clear, concise and fitting in with the culture. They actually fitted in well with restoring relationships. Because Ranjit had fallen off the wagon with respect to his religion, reading the [Sikh] Bible would help him to recover that'. She considered that all participants took the matter very seriously, especially the possibility of Ranjit being sentenced twice (i.e. once the Sikh way and then the Western way). The outcomes 'felt like they were well thought through and appropriate, and really came out of the community'.

After the sentence...

Ranjit was discharged without conviction. The judge gave Ranjit credit for having pleaded guilty and commented on the restorative justice conference having had 'a worthwhile outcome. He noted that this was brought about because Ranjit acknowledged that he was at fault and had apologised profusely to Amreek. The judge further noted that Ranjit had fulfilled all the conditions set out in the conference plan. He added: 'more significantly is the fact that the offending that you committed whilst you were under a great deal of stress concluded in November 2001 and I am heartened by the fact that there has been no repetition of that conduct over the past 12 months'.

Presented to the court were two additional reports, one from the cultural adviser, Harbhagen, and one from the Temple at which Ranjit did his community work. Ranjit chose to do his community work at the Temple he usually attended, which was not the same Temple attended by Harbhagen, who had agreed to monitor the work. The cultural adviser's letter advised the court that he was 'unable to verify the report...as I have not sighted him at the Temple on the dates in the report when I have been present there'. The second report outlined the services Ranjit had carried out, who had supervised him, and his completion of the Sri Guru Granth Sahib or reading of the Sikh Scripture. At the conclusion of the reading, the supervisors and other members of the congregation attended the final ceremony. This was followed by partaking of food, and concluded with prayers.

Ranjit was very pleased with the outcome of sentencing. His first words to the interviewer were: 'I must thank restorative justice for this result'. He considered the judge's decision was very fair. Of the criminal justice system, he was very positive. 'I think the restorative justice did a wonderful job; it allowed us to talk and to move forward. I wish I'd been told about it at the start of the legal process. We could have resolved things earlier. We got to know about it one year later.' He felt the whole country should be told about restorative justice. It should be in the media, including the Indian and Chinese papers. 'It is a very unique system', he said.

Jasbir said she was very happy and relieved. 'It's such a huge burden off our shoulders.' She was less happy, however, at the letter sent by Harbhagan. 'It was almost like sabotage. I did not know why he did that. I'm not sure why it was relevant. I wonder if he got the idea from Amreek, who goes to the same Temple. Harbhagan does not get on with the people in the Temple in which Ranjit did his work.'

Amreek was overseas at the time of sentencing and was unaware of the sentence when approached for interview. When informed of the sentence, he commented that he thought the conference report had helped Ranjit. However, in Amreek's opinion, Ranjit was 'definitely convicted in God's House'. He did not consider sentencing had helped him. However, he did not blame the court for this as he had written a persuasive letter to the court appealing to the judge not 'to view Ranjit as a criminal...as this will affect his future career'.

This letter also stated 'irrespective of any reasons which made him do what he had done, I sincerely believe that Mr Ranjit Singh had no malice or criminal intentions towards me as I'd known him for many years ...and (he) had dedicated a lot of his time and resources to increase the awareness and welfare of the Sikh community as a whole. Mr Ranjit Singh has since been apologetic and regretted his actions and has asked for my forgiveness. As a human being, I believe we all make mistakes one way and another, and Mr Ranjit Singh is no exception'.

Amreek considered this letter was probably responsible for the sentencing outcome. He had written it after receiving numerous calls and a letter from Ranjit requesting Amreek's forgiveness. Writing this letter had hastened the whole process, which had been Amreek's objective. Amreek said he 'wanted to get it over fast. We would rather have this over and done with than live with this for a long time'. However, he added that many hours and resources had been expended on solving the crime, his own and the State's, and it seemed to him that the message conveyed by the decision was that 'crime can be taken lightly, probably in the name of manpower. Punishments are so light that offenders are encouraged to offend again'. Thus he felt more negatively towards the criminal justice system, which, he said, provided no real justice for the victim.

Notwithstanding this, Amreek was positive about the potential of restorative justice conferences to mediate differences when both parties are sincere. In his case, he said that 'the good thing about the conference was that the business matter was resolved. I said that if the business matter could be resolved then the other [the emotional impact of the offence] could be resolved. But deep down I feel differently. This is not being hypocritical. I had gone out of my way and wrote the letter...to reduce pressure from the offender. To forgive is a good thing to do as a Sikh, to "score more points" in God's House, but my soul is not happy. But, not so unhappy that I'd do something bad to the offender. Everything is counted'.

Amreek also commended the facilitators, but reiterated the importance of not sending out the wrong messages to offenders. He warned against the process being used to reduce the impact of the penalty on the offender. 'It should focus on reconciliation with the victim, and to repair what has been damaged. If it is used to reduce the impact on the offender, then restorative justice is a big farce.' He concluded by saying: 'I've tried to curb myself for what I believe. If I wanted to be vindictive, I could have gone out for my right to use the system of the law to get the punishment I want'.

Harbhagan expressed the view that the judge had made the right decision. He was pleased the judge took into consideration 'what we decided. But I don't want it to become a standard thing. Each case should be looked at on its own merits'. He explained how working in the Temple was good in that people attending would know that Ranjit had done wrong. They would not know what he had done but he would experience a sense of shame.

Linda felt that the sentencing was 'good for Ranjit. I think Amreek will be equally as happy. I don't think Amreek wanted anything further to happen'. She noted that he did not want any input but was satisfied with the outcome. She also said that Ranjit was so happy with the result that he had called 'about ten times' to thank her for the conference.

Hannah's remark, upon hearing the outcome was: 'That worked out well then'. Of the difference regarding the two Sikh reports to the court, she commented: 'It's Harbhagan's issue. If the victim and offender are happy with it, then that's it.'

Twelve months later...

Ranjit remembered the conference well and was pleased that 'we were able to find a solution without lawyers and accountants coming into the picture'. He said that he was still very satisfied with the conference overall and with the plan. He thought conferences were designed to benefit both offenders and victims. Ranjit had completed all the plan except the community work at the Temple which was still continuing. He was also very satisfied with the judge's sentence. Ranjit said that he had not offended but did not attribute this to the conference. He also said that as a result of participating in the conference he now felt more positively about the criminal justice system and would recommend conferences to others. He did not think he would offend again and so did not express a view about whether or not he would attend a conference if he reoffended.

Amreek was travelling overseas and so could not be contacted.

Case Study I

This case study is relatively unusual. It involved intentional damage, threatening behaviour, and assault with a weapon by Joshua, an 18 year old Māori, against Terry, a Samoan businessman and his property and, in retaliation, the wounding with intent of Joshua by Terry. Thus the victim in one set of offences was the offender in the other offence. A single conference dealt with the offending of both men and the roles of the parties changed accordingly. There were a number of other distinctive features in the conference: a remarkable sense of kinship evolved during the process between the two parties, who were of different cultural backgrounds. In this case study, too, the judge's sentences went beyond the recommendations of the conference participants. The facilitators were Joan (lead facilitator) and Peter.

The offending...

Joshua had been drinking with some friends when the group decided to drive around the local cricket club grounds, tearing up the grass and breaking one window. This occurred around 9.30pm and was situated close to Terry's house. Terry, seeing the damage, approached the group and asked them to leave, informing them he had called the police. He then returned home. The group continued with their activities, damaging a clubroom window in the process. Terry came back to the scene and asked Joshua what his name was. The group then departed.

Joshua, however, followed Terry home and hurled obscenities at him. He also pulled a branch off a tree on the property and used it to hit the screen on the front door. Terry warned him off, telling him that his children were asleep in the room next to the entrance. Joshua then used the branch to hit the bedroom window. Terry quickly went to their room in a protective manner, anticipating some action from the young man. The glass broke, spilling over the sleeping children. Terry became enraged and grabbed a baseball bat that was close by. Joshua ran but was soon caught by Terry who proceeded to hit him twice with the bat. While he was on the ground, Terry punched him in the face three times. The police arrived on the scene within moments. Shortly after this, the ambulance arrived as it became evident Joshua was badly hurt, with a fractured skull and serious concussion.

At the conference...

Joshua had no support person. Terry, however, had his wife, Miriam, with him. Joan, the facilitator, welcomed the participants in Samoan, Māori and English. Next came introductions and a prayer, which were followed by a reminder about the ground rules. It had already been acknowledged at the pre-conference meetings that this was the first conference facilitated by Joan and Peter (the co-facilitator) where each party was a victim and an offender. This was reiterated along with the fact that a different procedure was to take place. The conference was to be divided into two parts: the first where Joshua was the offender and Terry was the victim; the second where Terry was the offender and Joshua was the victim. Each man would take his turn at

being the victim and the offender. The rationale was that each needed to understand and feel the impact of his actions on the other and on their family and friends. One chair was assigned to be the 'victim's chair' to be occupied as appropriate.

As Joshua was the first offender in time, he became first offender in the conference. The police summary relating to his offence was read. Joshua accepted the summary, qualifying his acceptance with a comment that he was too drunk at the time to recall what happened. Also, because of his subsequent head injury and memory loss, he was unable to confirm its accuracy. He outlined what happened as far as he could and then talked about the effects of the incidents of the evening in question. He stated: 'I was stupid in what I did and I am really sorry. I accept that I have suffered bad consequences for what I did. I am sorry for what has happened, but it has really wised me up. Ever since hospital, I have been changed and I've been working ever since'.

Joan asked Terry to give his recollections of what happened from his perspective as a victim. 'I just wanted to tell the guys to move on. But when a window smashed, I wanted to make sure someone was held responsible for the damage... A policeman thought I was a bit of a hero going out there, but that's not it. I don't like kids getting away with stuff like that. I wasn't angry but it just isn't right. All the time, part of me was thinking, 'Let it go... it is just guys on the juice. The only thing that really set me off was thinking of my kids and that glass'. Miriam added: 'It wasn't really that big a deal until they started hitting the house with sticks and the window was broken'.

The couple spoke about the apprehension and fear they felt following the episode, when they experienced 'implicit and explicit' harassment. 'The worst bit was the couple of weeks after. We all slept in the lounge and my brother-in-law had to stay over. We were awake all night looking. There was this blue Holden parked across the road. Another day, a guy drove by and Miriam was out the front and he spat at her. It really freaked her out!' explained Terry. He concluded by describing his concern for Joshua, telling him that, after it happened, he had telephoned the hospital immediately and a few days later. 'I didn't want him to be hurt, you know.'

The second part of the conference began after Terry and Joshua changed 'roles' and seats. This time Terry was the offender and Joshua, the victim. Peter read the relevant police summary. Joan asked Terry to speak first about the events of that evening. Terry explained, 'As I say, when the window smashed that was the straw that broke the camel's back. When my kids were brought into it, I just thought I had to protect my wife and kids... So I rushed out of the house and I saw the baseball bat and I grabbed it. I was angry with all of you. But you, Joshua, were the focus of it'. He became apologetic about what he had to say next. 'I am really sorry that you have to hear this, Joshua, but I caught up to you and I hit you on the back of the head with the bat and you fell down; and I punched you in the face and then you were swearing at me and trying to hit me; and I hit you a couple more times in the face. I am sorry about that.'

He gave an account of the concern he felt about Joshua after it happened. 'I have real regrets regards the extent I went to hurt you, Joshua.' He added that he had since realised that there were other ways he could have dealt with the situation. After ringing the hospital and finding out how seriously ill Joshua was, Terry had been very worried for him. He was only able to relax when he knew that Joshua was recovering well.

Terry spoke directly to Joshua: 'From what people have told me, you are a good kid, a really good rugby player; a policeman told me you were just with a bad bunch. I would hate to think that I jeopardised your career.... I'm just really sorry for what happened. I've just realised that I haven't actually said that yet'.

Joshua was asked to speak about the impact of Terry's actions on him. He was emotional as he articulated the months he'd experienced following the incident. 'My rugby career has gone to shambles. I have missed the opportunity to go into the team that tours Australia...I hated being in hospital. I don't want to go back there.' He told Terry and Miriam about how it had affected his father. 'My dad was really upset; all his mates who came to my bedside, they are my uncles, and they were all crying. I realised that I haven't thanked those people who stayed with me all that time.'

It had not all been negative for Joshua, however. Joshua told them of the positive outcomes, saying that coming close to dying and realising he could have been 'six feet under' had made him re-evaluate his life and see how precious it was. He said his life had changed as a result. 'I am not the same, but I might be better. I've matured about ten years in the last six months.' He then had a question to pose to Terry. It had been on his mind since he had recovered consciousness. 'I just want to know – one of my mates said that you said "I hope you die". Is that true?' Terry appeared shocked and replied: 'No way. I was angry with you but I would never say something like that. I am a Christian and I just wouldn't say that. No way'. Joshua said: 'I believe you, man. It is just good to know that'. Terry had more to say. 'Hearing Joshua speak... it really hits me... I am tremendously sorry for what I have done and I really hope you can go all the way with your rugby.'

Miriam had something to add. 'As Terry's wife, I want to apologise. It is terrible to think of how you have suffered and what might have happened.' After Joan asked her to explain how the events had affected her, she said: 'After it happened...It was terrible. I couldn't sleep. I couldn't wait for the morning to come. For daylight...I understand the love your family had for you because I was so frightened for my family. I can understand that your family is upset, but I hope we can sort this out because we could possibly be living in the same community for the rest of our lives, and seeing each other in the street'.

Joshua responded: 'Saying that you understand my father's anger and how much he loves me. That helps. I don't feel any anger towards you and I understand that it must have been very frightening for you. I feel very sorry for you. I can't understand what it is like to be a father because I haven't been in that position. But I imagine what it must have felt like because I know how my father felt when I was hurt'. He then summed up their combined situation. 'What happened to both of us was bad. We are both victims. We have both suffered.'

The conference paused for tea and homemade banana cake. During the break each party took the opportunity to reflect and consider outcomes that they would like to see as a result of the conference. There was a lot of mingling and dialogue between the parties.

After they had had tea, the conference re-convened. The apologies from both men were repeated and accepted with goodwill. Joshua told Terry and Miriam that he felt respect for them both for their apology to him, to which Terry replied: 'It means a lot to me that you accept my apology'. The couple did not want any reparation for their window. It had been repaired, and they had since moved house.

In response to Joshua's comment that he did not like hospitals, leading to his failure to go back for a check up, Terry offered to 'make sure' Joshua attended his next appointment. Joan took this up and asked Joshua to arrange a date so that Terry and Miriam could know that he was committed to it. It was agreed that no further penalty would help anyone. There had been huge learning on all sides. Joshua again spoke. 'Both of us have suffered; time has taken its toll on us. The whole thing has dragged on long enough.' He felt happy that Terry had said he would come and support him at a rugby match 'because that meant he has given me his respect and that is enough for me. He gives respect and he has mine'. He added: 'For any man, his family

comes first; I understand that. For his family, I wish safety and happiness; and for me, I wish to accomplish my dreams'.

Terry observed that, when he began the restorative justice process, he had not been sure about whether it would make a difference. But after attending, whatever the outcome of court, he was glad he had taken part because he could now look at himself with respect again and could move on. He reaffirmed how glad he was that Joshua had such positive plans for himself. He wished him the very best for his future.

Two and a half hours after the conference started, it ended with handshakes and hugs all round.

After the conference...

Terry, as a victim, thought the conference was 'a more humane way of settling things ... in a direct way, increasing the understanding so both parties could put it behind them in a loving way'. He felt 'a bit nervous to begin with'. He could not remember who spoke first, but he thought he did. 'After speaking, I felt a bit better letting him know how we'd been affected. And seeing the look in Joshua's face, he appeared to be quite taken aback by what he heard. This showed me he was a decent chap. After that, I started feeling nervous about how he would respond, not knowing whether or not he would disagree. When he replied, he really came across as extremely sorry for what he did. His remorsefulness was quite a weight off our shoulders even though he had terrible injuries himself. He probably had every right to harbour ill feeling. He also said he doubted some of what his friends said – this showed his level of maturity.'

Terry said that, at the end of the conference, he had experienced a 'sense of closure, like a huge weight had been lifted from my shoulders'. Of Joshua, he commented: 'I had a whole new respect for him, just in the short time of the conference. I saw him in a different light. He came across as a fine young man who'd gone off the rails a bit but wanted to get his life back in order. He'd already taken steps to do that'.

Terry felt involved in the conference and praised the facilitators for doing a 'really good job'. 'It was like they weren't there – they weren't forcing us, they just put us in the right direction. There was no spoon-feeding.' He found explaining how the offence affected him was probably the most difficult part of the conference. 'Joshua showed a lot of respect for me. The facilitator handled this part extremely well.' He felt he had ample opportunity to say what he wanted to say. 'The way the facilitators spoke to us before we spoke really put us at ease, gave us the confidence to say whatever we wanted to.' Terry felt safe and respected. When asked whether Joshua had been able to make up for what he had done, he said: 'I like to think I can know what a person's like. He gave a really sincere apology – that was enough for me as a victim, an apology from the heart'.

His impression of what motivated the offence remained unchanged after the conference. 'At the time, I thought he was a young guy trying to impress his friends – peer pressure. That's still my view.' He found having Miriam there as his support person was very useful. In fact, he considered her to be 'just as much a victim' as he was.

The agreement made at the conference left Terry feeling very satisfied. The best part was 'just the chance to prove we'd put it behind us. We'd forgiven Joshua. It's important to be able to show that forgiveness'. He felt better after attending the conference, due to having the opportunity to 'sort things out on a personal level. To know as a victim that the offender was, in his own words, sorry for what he had done'. The best part of the conference was the degree of ease the facilitators created. 'Little things like Joan made home-made banana cake

and cookies. After the conference, Joshua and I talked about other things.' He felt 'very much safer' in relation to Joshua, as a result of attending the conference, which he likened to the Samoan Ifoga process of peacemaking.

He felt the conference was what he had in mind after hearing about it from others. It met his expectations. 'There were no surprises, nothing happened I didn't expect.' Of restorative justice conferences in general, he thought they were 'excellent tools, a means of settling things, where the legal system doesn't meet the needs of people. I can see how it would meet the needs of Pacific Island people, as not being as intimidating as the criminal justice system'.

Terry, as an offender, said he felt anxious, at the beginning of the conference, to find out what Joshua was going to say. 'It was hard for me to see him as a victim and me as an offender. I emphasised it was my family I was looking after as any man would. Hearing his side of the story made a big impact.' At the end, Terry was aware of a huge sense of relief. He felt quite content that he'd made his peace with Joshua in a Christian manner, 'as I'd been brought up that way'. His impression of Joshua at the end of the conference was that he was a 'young man who respects people – as a really determined sort of person, with maturity beyond his years'.

Terry also appreciated having the chance to explain why the offence happened: 'It was probably the part I was looking forward to the most'. He felt that, as an offender, he was treated with respect and fairness. When asked if he felt he was able to make up for what he had done, he responded: 'Really, all I could do was offer him an apology. I couldn't give him money or any material thing. Although he accepted my apology, for which I was very grateful, he was seriously affected by what I'd done'. He repeated how much Joshua's acceptance of his apology meant to him. Terry was asked if he was ashamed of what he had done. 'I'd be even more ashamed if I hadn't done anything. I'm ashamed of the extent I went to.'

Terry commented that his wife had spoken on his behalf, 'and even Joshua did in an indirect sort of a way. Like, after Miriam spoke, saying she realised she understood he was the son of two parents [in the context of the stalking by Joshua's father], and explained the love of a parent, he understood where we were coming from. When he heard that, he understood why I did what I did'.

For Terry the good feature of the plan was as follows: 'It's on the other side of being a victim. I was willing to act on what I'd said. I was willing to face up to whatever Joshua wanted me to – to show I'm a man of my word'. Of the good parts of the conference itself he commented: 'Just the fact that things were settled. Knowing he'd accepted my apology. I was secure in the knowledge that everything personal between the two of us had been settled. Now it's up to the legal side of things'.

When asked if he was pleased he had participated in the restorative justice conference, Terry replied: 'The only reason I chose this course was the belief that I would be likely to get a discharge. When I found out this was not the case, I felt like pulling out of it. I was prepared to go to trial. But people whose opinions I value encouraged me, as restorative justice was the Christian way. To meet face-to-face, apologise, was better for closure. Regardless of whether I get a conviction, I'm still pleased we've made our peace. This, to me, was the proper way of settling things'.

Joshua, as a victim, considered the conference was a means of 'seeing how Terry and his family felt, and how we feel now, and what possible outcomes can come from this for both of us'. He described his feelings at the beginning of the conference. 'I felt a bit scared of a face-to-face meeting with Terry, and a bit intimidated by the support he had from his wife. At the same time, I was thankful I was on my own. It happened when I was on my own, I appeared in court while I was on my own, and I was facing up to the consequences and him on

my own. I like to consider myself as a strong person, to have that X factor, the person who stands on his own two feet – very independent...I'd already shaken his hand in court. He approached me and asked: "How are you going?" That gave me a lot of respect for him. He approached me like a friend. We wished each other good luck. I actually felt he had respect for me – he actually wanted to solve something.'

At first, Joshua felt too scared to say what he really felt, but then Joan made him feel really welcome and a part of the conference. He had a sense of being involved, understood everything and had opportunities to say all he wanted to say. 'Everything that was explained to us was very vivid.' When asked if Terry had been able to make up for what he'd done, Joshua explained that he cannot make up for my lost rugby career. 'But he did offer to come and watch me play. He wants me to continue to achieve, very much so.'

Terry apologised to him and his wife apologised 'on his behalf' too. 'That really had a big impact on me. She said if that was her son in hospital, it would have been the same for her as it was for my father.' Joshua was not sure whether Terry understood how he felt. 'I'm not too sure whether he's had a similar head injury which was life threatening. Other than that, he understood.' In Joshua's view, Terry showed he was really sorry. Just his facial expressions and concerned looks. He'd rung up the hospital to find out how I was.'

At the end of the conference Joshua felt quite relieved. Many gaps in the puzzle had been solved. He added: 'I felt quite happy, happy that I got an apology, that I got to answer an important question for me from Terry. I asked him this near the end when I felt really comfortable with him...We had achieved something'.

When asked if he would have liked more support at the conference Joshua said: 'I would not have minded my girlfriend being there, but I'm quite glad I handled it by myself. I wasn't going to get advice on how to deal with it. My decision was good for me – I'm pleased I made it'. He was also pretty pleased with the plan. The good part for him was that they were both seeking the best possible outcome for both of them. He felt 'definitely' better after attending and, for him, the best part was playing both roles, changing chairs, 'stepping into a different set of shoes'. He was very satisfied with the conference and spoke positively about Joan's role. Joan was good; she really helped me and gave me the support I needed – from a stranger.'

When asked if he had any other comments, Joshua noted: 'I'd like to thank Joan and Peter and Terry and Miriam, and wish them all the best'. He considered that restorative justice was a process in the making, which for him had worked quite well. 'I hope to see more of it in the other courts', he added.

Joshua, as an offender, thought the conference was trying to help him to understand what he'd done, the outcomes of that action, and '...how I'm going to live the rest of my life'. He felt scared at the beginning and '...a bit sad for him and his wife on how they must have felt on the night in question'. This feeling remained with him throughout the conference. He initially felt too scared to speak but, when he felt comfortable, he was able to say what he wanted to say.

He felt he was partly able to make up for what he had done by trying to understand. He apologised to Terry and Miriam and received an 'open-hearted acceptance of that apology' from both of them. He felt very ashamed of what he had done. Joshua was made to partly feel that he was a really bad person, from the account of his smashing the window onto Terry and Miriam's children. He was satisfied with having no support person present, and very satisfied with the plan and conference, which effectively, on a personal level, settled the matter. 'We could get on with our lives.' For him, the best part of the conference was 'explaining what I'd done wrong and its possible outcomes, as part of the consequences'.

Miriam said she attended the conference because she wanted to see Joshua for herself. She was also motivated to attend after Joan had told them how important it was for them to tell Joshua how they had felt, and by recalling a family group conference she had attended previously. She explained how the policeman had appeared quite sympathetic to Terry, especially since Terry was charged initially with grievous bodily harm. 'I could tell he appreciated what Terry had done.... Because it was an indictable charge, they suggested a restorative justice conference to help him, especially when Terry told him he wanted to be a policeman.' Miriam was not happy with all this information, however, because it was incomplete. Terry had to go and find out about it from his lawyer.

Miriam also said she felt unprepared for the conference. 'After meeting Joan and Peter and told a possible date, we didn't get a call until the night before the conference. I felt a bit anxious and would have liked more time to prepare my thoughts and feelings to tell Joshua. It still turned out pretty well. It did make a difference. I think they intended giving us three days' notice. We also noticed that Joshua had few support people at court – we didn't want to intimidate him. If there had been more time, and if Joshua had had support people, we would have invited and prepared other support people. This needed time.'

Miriam thought the conference was trying to allow both parties to hear what happened before, during and after the offending took place. She recalled feeling a 'bit anxious' at the beginning, which was not helped by Joshua arriving 30 minutes late. 'You just sit on the edge of your seat just wanting it to hurry up and happen.' It was meeting Joshua as a victim that made her anxious. 'We had met before, but this was the first opportunity to talk to him. I was still very keen to see him and say what I needed to say – to let him know how he had affected us, and let him know we understood how his family felt. All parents, even if their children have done wrong, care for their children. No one likes their children sick.'

At the end of the conference, Miriam said that she was no longer anxious. She had instead a sense of a burden being released. She felt both sad and glad for Joshua – sad for his family background, his head injury and his rugby career and ambitions. However, she was glad he spoke to them more warmly at the end of the conference, and in a direct manner, rather than through the facilitators. 'It brought us together in a good sense.'

She felt involved in the process and that she was given equal significance to Terry. 'I wasn't his little 'tag-along'. She understood what was going on, which was helped, she said, by the extra half hour they had with the facilitators waiting for Joshua. Although she had had opportunities to say what she wanted to say, she sometimes did not 'keep on track. I didn't get the opportunity when Terry was the offender, but I did when he was the victim. I suppose in a conference it's wrong to go back over old ground if others have moved on. You don't feel it's appropriate to take things back. Had I had the opportunity to speak after Terry had spoken as the offender, I wouldn't have left the conference feeling I should have said something'.

Miriam admitted to feeling more embarrassment than shame regarding Terry's offending, noting, however, 'had Terry hit him on the wrong spot on the head, there could have been a lost life that night'. She 'totally' understood why Terry did what he did. 'I've always had the greatest respect for my husband. If anything, it highlights how important we are to him...I've never criticised him for what he did. Being there, I saw what he did, and why.'

She was very happy with the plan. The best part was that Joshua would keep his appointment with the neurologist. The good feature of the conference was her involvement. Of Joshua, she commented, 'the way he was – it was really good to see him sit there and see him and listen to the way he talked. And the way Joan and Peter did not interfere or try to direct us in a certain way, or speak for us. I think if we had needed

prompting, Joan and Peter would have done so'. Miriam was very pleased she had attended the conference, and expressed a belief that restorative justice is a 'good way to go' if people are prepared well. 'Looking back, a different group of people could have had a different conference. I suppose the facilitators had that well sorted out before it happened.'

Joan explained how conscientiously she separated the act from the person during the pre-conference, conference and post-conference meetings. She found listening to each man give his full account of the events that night, at the pre-conference meetings, helped her in the conference. She noted how, during the tea break, the conference did not follow 'the theory' that each facilitator would sit with one of the parties to plan ideas for the discussion on outcomes. Instead, everybody talked together, then Joshua came in to the kitchen with her and talked about how he did not want to go back to hospital because he was afraid he might not get a good report. 'The overwhelming thing was that both had suffered and prices had been paid. Joshua noted that while he ended up with the greater impact being on him, if it hadn't been for his actions it wouldn't have happened.' Other positive aspects observed by Joan were that Joshua had reacted positively to Terry's wife – Joan described this as 'the moment the real breakthrough happened' – and that Terry had been able to be 'pretty frank' about his feelings.

Peter was conscious that this was his first conference. Joan had carried out most of the preparation. During the conference, he had a concern that there were no tangible outcomes for the court to use at sentencing. Instead, it was clear that both 'suffered incredible remorse. My concern was that the court would not find this enough. Both need to get on with their lives. Nothing will be gained from community work. If the court does this, Terry will have to give up teaching bible class to 18 to 20 year old youths'.

Commenting on its success, he noted that both Joshua and Terry had said the conference was successful and that both were glad to participate. Of particular value had been Miriam's 'mother's perspective' – it was really good she was involved. He had felt a 'bit on the back foot on this first time out. Joan and I had agreed on how to run it. At 5.15pm (15 minutes before it was due to start), she arrived saying she had changed the format. That made me very much a spectator. I had to go along with it, but I felt quite discomforted by the lack of consultation'. Notwithstanding this hiccough, he enjoyed working with Joan and her efficiency. 'The big anxiety seems to be getting together with the clients.' As a first case, he found it very satisfying – both people were basically very good people. 'Both men chatted at court today; they've sorted it out. In that sense it was genuinely restorative. The conference worked on that level.'

Terry's pre-sentence court appearances

When Terry attended court expecting to be sentenced, he found that the matter was adjourned for two and a half months so that he could complete an anger management programme. He and Miriam were disappointed with this. Joshua, when he learned of this interim outcome, was also unimpressed.

During the anger management course, and after he had attended two sessions, the therapist informed Terry that he did not need to attend the classes (since he did not fit the criteria). He nevertheless completed the course as ordered by the court. He discussed his situation with a number of people who encouraged him to request (through his counsel) a section 19 discharge without conviction. When he appeared in court for a second time, this was put to the court. His counsel added that one reason for the request was Terry wanting to join the police force. He would be ineligible with a conviction. Upon hearing this, the judge adjourned sentencing for a further six weeks to enable Terry to get a letter from the police recruitment officer. This letter needed to say that Terry could be a candidate for the police and that he would be ineligible if he had a conviction. The duty

solicitor suggested Terry might improve his chances of a discharge if he did some voluntary community service and so Terry gave serious consideration to doing that as well. 'I'll do whatever it takes to avoid getting a conviction', he stated.

After the sentence ...

Joshua was convicted and sentenced to 150 hours of community service. Four months later, Terry was also convicted and sentenced to 150 hours of community service. Joshua's sentencing was not transcribed and so there are no sentencing notes to help understand the thinking behind his sentence. A different judge sentenced Terry and he described Terry's appearance in court as 'a tragedy' and said that he had 'the sympathy of the court'. However, he also described the offence as a 'very serious matter'. In determining Terry's sentence, the judge gave him credit for his guilty plea and explicitly acknowledged the report on the restorative justice conference. The judge referred to the fact that at the conclusion of the conference, both Joshua and Terry felt that 'no further penalty would help anyone' and that each of the men 'had learned a huge amount'. The judge noted that the outcome of a restorative justice conference was a matter which the court must take into account as a result of section 8 of the Sentencing Act. However, he went on to say that 'other matters must also be taken into account', including Joshua's sentence. He then referred to Joshua's plea of guilty to lesser charges, his sentence of 150 hours community work, his previous convictions for relevant offences and to the fact that he regarded Joshua as the 'instigator of the whole affair'. These factors had to be balanced against the more serious charge Terry faced. On the other hand, the judge accepted that Terry had not previously appeared in court, was a family man and was well thought of by those who knew him, and that he had successfully undertaken an anger management course. He rejected Terry's counsel's submission that he should be discharged without conviction and made clear that 'normally the court would be considering a reasonably significant term of imprisonment for an assault of this kind'. However, the judge decided that 'a community-based sentence in all the circumstances is appropriate' and that 'in the interests of parity, the court can properly impose the sentence meted out' to Joshua.

Terry said that he would have been quite happy if Joshua had not received a conviction. He did not think the conference report had had much impact on the outcome. 'For me, I've buried the hatchet!' he explained. He considered that Joshua's sentence took account of his needs. In terms of fairness, Terry rated Joshua's sentence poorly. 'I know the law's the law – it seems not to have taken into account the restorative justice conference.' The whole experience, he said, had left him feeling a lot more negative about the criminal justice system. 'I feel I have been slightly coerced into the conference by the detective and victim adviser, not by the R.J. people. Every person I came across said they would have done the same thing. I am really disillusioned.' Disillusionment with the criminal justice system did not, however, impact on his positive views about restorative justice conferences. 'I still believe in them. I've made my peace with Joshua.' He would recommend restorative justice in certain situations and, if a victim again, would attend another conference.

Terry stated he was 'a little bit disappointed with his own sentence but had accepted it'. He considered the judge's decision in regards to his own sentence as fair. As a result of participating in the restorative justice conference he said that he felt much the same about the criminal justice system. However, prior to sentencing, he had felt more positive. When asked how he felt about restorative justice conferences in general, from an offender's perspective, he replied: 'I dunno. At the moment, it doesn't really hold much sway re the legal side of things, but personally I think it's great – the reconciliation'. He would recommend restorative justice conferences to other offenders, but he would encourage them to be realistic and not expect 'a miracle'. Although his reoffending was 'never an issue', he commented that participating in the conference would stop him reoffending, 'in the remote chance that the same thing happened again, God forbid'.

Miriam felt somewhat disillusioned about the legal system. Participating in the restorative justice conference gave them unrealistic expectations. She explained: 'Part of my disappointment is due to lack of knowledge about the legal system', which added to her expectation level. 'But the law's the law, and Terry crossed it. But hey, the restorative justice conference was good...the judge felt sympathy towards Terry, he understood why he did it, protecting his family.' Miriam also considered that Terry participating in the conference gave the court a better idea of what her husband was like. Most of all she felt relief it was all over; it had dragged 'on and on'. She had no regrets they had gone to the conference and that they had tried to do all they could.

Joshua, when advised of Terry's sentence, considered it likely that the conference report had had an impact. He described his own and Terry's sentences as 'reasonably fair'. As a result of his experience with the conference, he felt a lot more positive about the criminal justice system. 'Its findings are reasonable, to a point where he did get a conviction.' He felt very positive about restorative justice conferences and would recommend them to people in the same and different situations. 'They can help the victim and offender, and it is on a friendly basis. It helps a bit like a counsellor, where they [Terry and Miriam] are there to listen and help you.' He would attend another conference if he were a victim again. At the time of the last interview, Joshua reported that he had not had a visit by Terry to one of his rugby games. However, he was progressing in the sport.

Peter had been able to attend Joshua's sentencing, but was unable to be in court for Terry's sentencing. He considered both sentences to be a 'bit steep'. He heard in court that Joshua had other matters before the court. This 'took some of the brightness off the button' and he posed a question around whether, when families are involved, the conference should be given full information about other matters before the court. Was there a contradiction between restorative justice conference reports being written 'blind' when they were also aimed at giving the court as big a picture as possible? Peter wondered also whether the other matters had been taken into account and had contributed to the outcome. He acknowledged that Terry had committed a heinous crime with a maximum sentence of 14 years. 'He had beaten the guy's skull in.' He wondered if the now outdated 'suspended sentence' might have been more appropriate for Terry, whose offence was, in Peter's opinion, a 'one off', however disproportionate to what Joshua had done to him and his family.

Joan was able to attend Terry's sentencing. Her daughter and grandchild represented her at Joshua's hearing. She commented that, in her view, Terry was never going to get a discharge without conviction. Such a decision would have been sending out the wrong message to Terry. She commended the judge and legal counsel for their approach to this unusual case. The judge, she said, looked at the issue of provocation with great care. 'He sympathised and empathised' with Terry before he sentenced him to have parity with Joshua. 'There was as a great discrepancy between the charges as there was with the provocation — it was really a Portia-like balancing act by the judge.' It seems the restorative justice conference impacted considerably on the judicial decisions. 'The judge and legal counsel (including the defence and prosecution) mentioned the conference around ten times. They complimented both the facilitators and the participants, which was nice to hear.' On the issue of Terry and his hopes to join the police force, Joan said that his lawyer informed Terry before sentencing that, even if he had received a discharge, he would not have been able to join the police. She added that if it had not been for the restorative justice conference it would have been highly likely that Terry would have been sent to prison.

With respect to Joshua's sentence, Joan felt the judge had made the best decision for him. He had behaved badly while under the influence of drink. There would be nothing gained from sending him to prison or fining him. 'I have a lot of sympathy for Joshua' she commented. 'He's had a difficult time, especially in his home life. What he needs is for something to turn him around. The conference may have done this, but he needs a mentor. He is still a vulnerable young man.'

Twelve months later...

Terry did not recall the conference very well but did remember feeling very strange at being labelled an 'offender' that evening. However, he added that, on the whole, it was a good experience for both him and the 'victim'. The conference enabled 'personal closure' for them both. He said, overall, that he was very satisfied with the conference and thought that they were designed to benefit both offenders and victims. The only thing that made him regret taking part was the sentence he got. He wondered whether he would have got the same if he hadn't gone. Indeed, he said that he was happy enough with the conference plan but it did not eventuate as the judge did not consider it: 'he threw it out the door'. As a result, Terry was very dissatisfied with the judge's sentence: 'I just think the judge didn't take into account everything. I was led down the garden path'. Terry thought that a conviction and discharge would have been better. Terry said that he had not reoffended but he did not attribute this to the conference. Overall, he said that as a result of participating he felt more negatively about the criminal justice system. However, he was still in favour of conferences and would recommend them to others. 'But not if they're hoping it will help them.' He said that he would attend another one 'depending on the offence' but added 'I know I never will'.

As the victim Terry said that the thing he remembered most was Joshua telling his version of the events. He said that he was neither satisfied nor dissatisfied with the conference and was reasonably satisfied with the plan for Joshua. He also said that he was neither satisfied nor dissatisfied with the judge's sentence for Joshua. He said that he still thought about the offence weekly and that it still had a relatively high impact on him. However, he also said that he had been able to put the offence behind him. He thought that his participation in the conference, things that he had done for himself and the passage of time had all contributed to this. As a result of participating as the victim, Terry felt much the same about the criminal justice system. He would recommend conferences to others but not if they were hoping that it would help their sentence; rather he said that they were good for coming face-to-face with things. He did say, however, that he would attend a conference if he was a victim again.

We were unable to contact Joshua for a follow-up interview.

Case Study J

This case study concerned careless driving causing death and careless driving causing injury. Derek, a single man in his early thirties, worked as an electrician. The accident occurred one Saturday afternoon when he was travelling on the open road in a long line of vehicles. On reaching a passing lane, he proceeded to pass those ahead of him. While turning a corner, he lost control of his car and slid across the road into oncoming traffic, colliding with a van full of people, members of the Cassidy family, who were on their way to a family wedding. Charles was driving the van. Beside him was his son, Billy, and in the back seat were his sister, Paula, and his mother, Helen. Both Charles and Billy were badly injured, suffering head and chest injuries and, in the case of Billy, broken bones. Helen died of internal injuries on her way to the hospital. Paula received numerous fractures. The small and close-knit Māori family suddenly found themselves coping with tragedy. The sense of loss was profound. Derek pleaded guilty to the above charges. Of interest in this case study are the following: the incorporation of Māori cultural norms within a non-Māori environment with non-Māori facilitators and a non-Māori offender; managing grief within the confines of the criminal justice system; the timing and effectiveness of providing information about restorative justice to participants; the occurrence of a post-conference meeting between the facilitators and the victim family without the offender being present; and the difficulties created by inaccurate perceptions which can occur after an apparently successful process. It also demonstrates how victims can become disillusioned with conferences and the criminal justice system as a result of sentences. The facilitators were Brad (lead facilitator) and Priscilla.

At the pre-conference meeting with the victim family...

Due to geographical distances, the facilitators arranged to meet the Cassidy family at Charles's work place, where there was a board room (Charles sold real estate), thirty minutes before the conference was due to start. Present for the Cassidy family were Charles, Paula, Billy, Rihi, Tania (the youngest of Helen's children), Wendy (wife of Charles and mother of Billy) and Don (Paula's husband). This meeting began with introductions followed by a karakia and waiata, given by the family's kaumatua, Hone. The interviewer was present. It was clear that the family were apprehensive about the conference and what could be discussed. The facilitators advised them to use the conference to say how they felt and how the accident had affected them. The family talked of Helen and what an important person she had been to them and to the wider community. An added source of grief was the fact that Charles, Paula and Billy had been unable to attend Helen's tangi as they were still in hospital. Rihi raised the family's concern about the lack of information that had been provided to them since their mother's death. They were keen to have access to the police report of the crash, the pathologist's post-mortem report, and any photos taken at the scene. The facilitators undertook to follow-up this request for them.

At the conference...

Derek was 25 minutes late for the conference due to traffic problems. His older brother, Terry, accompanied him. Brad introduced everyone and briefly explained the procedure and ground rules for the conference. Derek was then asked if he would explain how he recalled the events of that fateful day. He asked if he could read a statement he had prepared for the meeting, as he found it difficult speaking sometimes. The other participants agreed. His statement read as follows:

I have agreed to take part in this meeting because I think that in meeting you all I will be facing up to the consequences of my actions and seeing first hand the damage that I have caused.

I feel that I could have avoided tonight and just easily dealt with the punishment sentence that will be given to me by the court system.

However, that would be distancing myself from the accident and shutting out what has happened. I don't ever want to be in this position again. I think that in being here I will be taking responsibility and taking away a lifelong reminder of what has happened.

I want to let you know I feel responsible for the damage that I have caused through a careless action. I am very sorry for the loss and ongoing grief that I have caused the Cassidy family.

I hope that being here tonight gives you all the opportunity to ask any questions that you might have of me or to say anything to me which will help deal with the loss of Helen and your own injuries.

Charles asked him how he felt coming to the conference. Derek explained his apprehension. He did not know what to expect, nor whether the family would be angry.

Ribi sat forward in his seat and asked Derek what had happened. Derek replied: 'I was on my way from Reefton towards Nelson, to pick up my girlfriend. I was in the passing lane...going too fast and my four-wheel-drive spun out on a greasy patch. I collided into your van coming the other way. I got out, and tried to help get people out'. Ribi commented dryly: 'That was a bad decision'. Derek agreed. He was asked if Helen was alive when he saw her. He said that she had been but that she did not speak. He added that he was at the scene of the accident talking to the police when he was informed that Helen had died on her way to hospital in the helicopter. Derek then explained he had gone around to the driver's door to find Charles being helped out by a nurse who was on the scene shortly after the accident happened. He described how he and others assisted Billy. He then helped Charles to get out of the van and sat with him on the side of the road. They sat there for around thirty minutes before help arrived.

Ribi asked Derek what effect the accident had had on him. Derek replied that his vehicle's crash bars had helped to prevent injury to himself. 'It seems unfair that I could cause something like that and not be injured. It's an ongoing thing; it's something I've got to live with now... I needed to give you an opportunity to say what you wanted to me.' There were a few heads around nodding in agreement at this point. Ribi continued: 'I was hoping you'd be a beast, someone I could hate, but you're not. You're just another person'. He explained how traumatic it had been for them. 'It was an unnatural death. None of us were there with her. I can't connect it. It doesn't make sense. When our father was sick, we knew it. It was easier to cope with...I feel like I've been cheated twice. Once for losing my mother and, secondly, because you don't look like the monster I thought you would!'

Ribi explained the events as they had affected him. 'We had to get the family together at the hospital. When we got there, we learned that Mum had died.' This was after they had gone looking for her and someone had told them she was 'downstairs somewhere'. 'We said "Why not here?" and they told us "someone was supposed to meet you. I'll get the lady from Bereavement Services". I still didn't believe it. I demanded to go and see her.'

As the oldest of Helen's children, Ribi found himself with some 'tough decisions' to make. He had to tell Don and Paula's younger brother that they could not come with the rest of the family to take their mother home because Charles and Paula were still critically ill. He had to have his mother buried in three days; half the family were in hospital. It was not certain they would survive. 'It was total chaos!' Added to these difficulties was the fact that they did not know Nelson and were out of their depth. However they were helped. 'The wider family helped practically and with aroha to get us through. It was unnatural to bury Mum with only half the family there...[for those who did not go through the process] I wouldn't be surprised if they still don't believe she is dead!' he exclaimed.

Charles had much more to tell Derek. 'I need to tell you what happened to me and my family. This has torn us apart and changed our lives forever! The biggest hardest thing was that we lost our mother without even being able to say goodbye. Paula and Billy and I missed the tangi. We haven't been able to grieve. We were separated in intensive care. Our families had to come and join us. If it were not for Ribi, we probably would not have survived; we were out of our territory. My wife was going between the medical and surgical wards. We had to deal with the fact that we were not at Mum's tangi and to heal as fast as we could.' He asked Derek: 'Were you going through anything like that?'. Charles did not allow Derek time to answer before he continued: 'It was a blessing for Mum that she went relatively quickly. My last memory of her was that I looked in the back seat and saw her. She looked asleep, not smashed up'.

Charles then provided Derek with a graphic appraisal of the effects he had personally suffered since the accident: the lack of sleep, the nightmares, his reaction to any sound of crashing, his isolation, his unreasonable guilt, the times he couldn't walk, his phobia about getting into their vehicle, and how it all piled on top of him, making him feel he was going crazy. He explained how he was having ongoing intensive counselling, which had helped him to a degree. 'What hurts the most is when I look at my sister and how she struggles to walk. I look at my son, the hassle of having his eye dressed, having hospital visits every two weeks. He can't play sports for 18 months. He seems to have come right, but the stuff in his head is what worries me.'

It was a surprise for Charles to learn that Derek was the person who sat with him on the side of the road after the accident. His enquiries about who it was had been unproductive; no one would tell him. He finished by asking Derek to read his letter again. Derek repeated his statement. Charles asked him if he had wanted to come to the hospital. Derek told him he had telephoned the hospital and the police regularly to see what was happening, but had been advised to stay away.

It was Paula's turn to speak. 'You don't look like the monster that caused this grief.' She told him about Helen. 'She used to walk every morning at 6 am. She drank low fat milk. She was a very fit person. To be taken like this is unreal...I have been trying to make sense of what happened to her. The worst pain is going to her grave and trying to believe my mother is there. I hang on to every word others say about her funeral, what she wore, who came, just so I can feel part of it.' Her emphasis then changed from herself to Derek. 'My heart goes out to you. It's not easy for you. I hummed and haahed about coming tonight. I was curious. I can't believe I'm actually talking to you. I thought I'd just sit here and cry. I'd like to thank you for giving us this opportunity. You could be my son!' she exclaimed. 'My bones are broken, but it's what's inside that will take the time.' She asked him a few questions about what had happened. Derek explained as well as he was

able. Paula told him, 'I got over my anger fast. I analysed it and thought, whatever I thought of Derek won't make a difference. It won't bring Mum back or fix the rest of us up. I think - if we were only 5 minutes later, or earlier, or took longer at our picnic. It was a beautiful picnic. There are so many "ifs" '.

Tania wanted to know more from Derek about their mother before she died. He told her what he could – that she was being cared for by people who had stopped to help before the emergency helicopter staff took over. Tania then talked to him about her relationship with her mother. 'We had our arguments. She was our strength, our rock. I really miss her. I know we'll get there. She was so healthy. I was the one who had to dress her at the funeral parlour with one of her sisters. We were warned that it was not a pretty sight because of her injuries, and it wasn't. The image is still with me as much as I try to block it out. Broken bones, internal injuries; but nothing on her face, she looked beautiful... She's been there for the birth of my son, my miscarriage, and my graduation. Part of the hurt is that I wanted to be there with her at the time of her passing over. None of us were there with her and that's hard for me. We had that opportunity with my father when he was sick. I believe she is in a better place. It helps make it a bit better.'

Brad acknowledged Tania's grief, adding that part of grief was to experience guilty feelings. Tania spoke more about the fullness of her mother's life. Helen had been involved in much community work, assisting Māori in the wider region. She explained how people remaining in this work were experiencing a real gap as Helen had been such a font of knowledge.

Wendy, wife of Charles and mother of Billy, was asked if she wanted to say something. She spoke of Billy's injuries. 'He's a sporty kid. Now he is not able to do what he wanted to do. He's got to live with that for the rest of his life.' She endorsed Charles's description of his sense of responsibility for the accident. 'There were days, weeks, when Charles kept saying: 'I've killed my mother'.' She then spoke of her mother-in-law. 'It doesn't make sense and it never will. She deserved to go on weeding her garden on a nice day. Here one day, then gone just like that. It doesn't make sense.'

Brad asked Billy if he wanted to speak. He shook his head. Tania then asked Brad if they could take a break to allow them an opportunity to talk among themselves. This took ten minutes. Derek, his brother Terry, the two facilitators and the interviewer waited outside. After everyone returned to the room, Charles said that the family felt this was a good time for the conference to conclude. The facilitators accepted this, offering participants a last opportunity to speak. This was the first time that Terry spoke. He said 'I'm not too good at talking but I want to say that I'm glad Derek came here and got it sorted'.

Ribi observed: 'All this time I've been hoping what you did was just a bad mistake. It seems to be the case. You were in too much of hurry, or whatever. I can live with that. Everyone makes mistakes. We've never done anything like you did so far as consequences go. I have put myself in your situation and I don't know how I could cope. Our mother was a fit strong person physically, in charge of everything. Now she's not there we find ourselves having to do things we don't want to do. I knew I would have to take over one day, but it would be a natural way. That's the hardest part. It's not fair'.

Wendy advised Derek that one thing stopped her from getting angry. 'I have lost two children. I could not handle losing Billy...I've got two boys. In ten years, they could do something silly like you and I know how I would feel on the other side. I hope it won't, but, if it does happen, I hope the other side will understand and forgive. I feel quite sorry for you when you shut your eyes at night.'

Charles did not share this view. He said: 'With due respect, your act resulted in the loss of my mother. It hurt my sister and my son and it stuffed my life up. I can't thank you for coming, but I'd like to. I'm agitated and upset at the moment. I've been coming right, but I have a feeling I could slide back...'

The kaumatua, Hone, then tried to retrieve the situation, aware of the pressure Charles was experiencing. He felt it was unfair for the 'children' to respond to this question. 'This is a kaumatua point of view. Derek, coming here is a big deal because you can hear, right here and now, the grieving has continued. It has changed now; it has taken on different shapes and dimensions. It's peaceful rather than aggro. It's part of our job supporting our nieces and nephews. To you, Derek, thank you very much. I say what I'm saying from the bottom of my heart. You are helping by coming to relieve the tension, theirs and yours. It will take a lot of weight off your shoulders. The things you have done, positive and negative, are beginning to balance. You can't get rid of it quickly; you know the dialogue and the vibes. Things are happening that will help the next part of the healing process. I thought you weren't going to get here. It's our perspective that grieving leads to healing. You should have brought the judge. He could learn by being here. He has to deal strictly from the law. That's the hard part for you to confront next week. These things here for us mean more than the law.' The conference then ended and participants hugged each other before leaving the meeting room.

The post conference meeting...

Although there was no agreement at the conference to do so, the Cassidy family met afterwards with the facilitators, but without Derek. Arising out of this second meeting, the family agreed on a separate letter being sent to the court. This meeting was also referred to in the conference report prepared for the court. It summarised what had happened at the conference and then stated:

This section is post-conference information and has been discussed with Derek. Derek has received a copy of this report and may well be in a position to respond to the ideas through his lawyer at court at sentencing.

After the conference, we as facilitators met with Charles, Paula, Wendy, Tania and Billy. We talked further about the matter of reparation and the very difficult issue around the implication that it quantifies the value of Helen's life and the physical injuries and the other effects on the rest of the family.

The family have since written to us and said that they do not want to 'ask for' reparation or quantify what that might be, but that they would be happy to receive something and any order made should be decided upon by the judge (not them)....

Other suggestions made at this post-conference meeting were that Derek should speak to groups of people, e.g. young people, or that he should do a defensive driving course. 'Any direction ...that Derek could make for the betterment of safer driving would seem right from the family perspective.' Monetary remuneration included the suggestion that Paula needed a more roadworthy vehicle since her injuries, and that the family could benefit from assistance (both financially and practically) with the building of a holiday home.

After the conference...

During his post-conference interview, Derek said that, in preparation for the conference, he was given a 'rough idea' of what the process entailed and that it was suggested by Brad that he should think about reparation, keeping an open mind about what he could offer the family. He also said that he felt 'pretty tense' at the beginning of the conference. He was not sure how they would react. He found seeing their injuries difficult. After the conference, he said that he had a feeling of relief that they were not angry and that they were getting over Helen's loss. He said that he did not do much talking, preferring instead to let them say what they wanted to say. He left the conference, however, wishing he had said more. He considered he had had the opportunity to say what he had wanted to say, and that he was treated fairly and with respect. When asked if he had been able to make up for what he had done, he responded simply: 'You cannot replace a life'. He felt that his apology was accepted, although he considered that the way he was dealt with had made him feel like he was a really bad person. Although his brother, Terry, was there, he really only said a 'couple of words at the end... Even though my brother didn't say much in the whole conference, just having someone you know beside me helped. I think it would have been quite difficult to walk into that room by myself.

He felt that an agreement had been reached in that his apology had been made, and 'amends had been made as best they could'. He did not consider the Cassidy family was seeking reparation. The plan was better than he expected and he was moderately satisfied with it – he had not known what to expect. It was good to have it recorded, although being taken down in longhand meant, he said, 'a few things were missed'. For him, the best thing about the conference was having the opportunity for closure and making amends. The worst was when Charles became a 'little bit agitated at one part'. He was moderately satisfied with the whole conference. 'It was like... you'd recommend it to someone in the same situation, but you'd rather no one else was in the situation.' In his view, restorative justice conferences were a good idea. He added: 'It was strange that it was initiated by my solicitor rather than by the other party. If victims were made aware, they could initiate it'.

Terry, Derek's older brother, was glad he had accompanied and supported his brother at the restorative justice conference. He commented that Derek was glad he went. 'It was well worth it. It helped him move on, I think for both parties as well.' He had no sense of being outnumbered. 'It was their choice, and it should be their choice. It's not about going there and being comfortable; it's about talking about things', he declared. Before they went, they were worried about how intimidated they would be. 'There was one person who said he wanted to get up and strike Derek! There's no other way to do it. Anyway, it was going to be a hard thing to do – just that Derek turned up was an indication of his remorse.' He did not feel that they were there on trial: 'it was more to help people to grieve, to move on. Let them see that Derek wasn't some murderer or bad person'. Terry felt that the conference had gone really well, letting them [the facilitators] conduct the meeting and for Brad to put forward a few questions on behalf of the family to enlighten them. It was good for Charles to ask Derek what happened, to help them make sense of it. Terry concluded: 'It's a good step forward'.

Charles said that he had agreed to attend the conference for three reasons: curiosity, to get some answers, and to tell Derek the consequences of what he had done. His family needed to put a face to the offender. 'It was a surprise... to see that he was a regular guy. The family needed someone to direct their feeling to, and who better than the offender?' He said that he had felt moderately prepared for the conference. He had found it necessary to get counselling after the accident, and he described his feelings before the beginning of the conference this way: 'I could feel myself getting so worked up that, if the waiting time had been much longer, I don't know whether I could have controlled myself. When Derek came in, things went all blurry. I couldn't think straight, I couldn't focus, I couldn't stop myself from sobbing. It was just the pure frustration of it. I was angry at being put in that situation but not angry with Derek'. He said that he had no feelings at all towards Derek. It

would have been different if it were a one on one situation, because the family provided a buffer. The presence of the family, and hearing what they had to say, kind of 'downplayed' Derek's presence.

In contrast, Charles said that he had felt quite light-headed by the end of the conference, due to a sense of relief that it was all over, and having been able to tell the other members of his family how it had affected him. 'It was a relief to get that chapter over!' he added. At the same time, he retained his frustration and anger towards the situation. 'I think the family accepting what he'd done – I felt cheated and resentful. I wasn't ready to thank him for coming along.' He was glad to hear the family being so vocal. This was the first time they had all been together and focussed on their grief.

Charles felt emotionally unsafe at times, feeling he was trying to control himself. If the meeting had lasted another half hour, he might have walked out. He saw Derek's accountability as partial: 'only inasmuch as he admitted it'. Although Derek apologised, Charles did not accept it. He didn't know whether Derek was really sorry. He felt that, rather than an agreement, the conference had arrived at an understanding. One good thing about the understanding was that the family realised that they were not there to pass a sentence on Derek. Charles felt no different after the conference, but appreciated the clarification on some 'technical points' relating to what happened. The conference 'hasn't filled in the missing gaps emotionally. The fact that Derek was a decent bloke hasn't helped me'. For Charles, the best part of the conference was the break at the end which enabled him to 'break the frustration, and allowed it to end in respect. We had a good open frank discussion afterwards with the facilitators'. He was moderately satisfied with the conference and pleased he had taken part in the process. He saw restorative justice conferences as necessary and would recommend them to others.²

Rihi stated his reason for attending the conference as: 'I wanted to look at and see the person who caused all this!'. Once he was committed to the idea, he just 'wanted it over and done with'. He felt that the pre-conference preparation had helped him in a limited way because he did not have anything to compare it with. This tragedy was the family's introduction to the criminal justice system. Rihi also observed that there was no discussion, as part of the preparation for the conference, about making a plan. Rihi suspected that the restorative justice conference was 'more to help the offender than us...is it going to make life easier for him? All those doubts. We were assured "No, it can make it worse for the offender". If you get a nice fellow like that, I think a conference would be okay, but if you get someone that is arrogant, ignorant and rough, it could have gone really wrong! Just before Derek turned up, I was very nervous, a bit agitated. It wasn't a good situation to be in. The wind was blown out of our sails'. He said he felt just dumbfounded at the beginning of the conference. 'I couldn't say anything. I just looked at him. I really wanted to know what had happened.'

At the end of the conference, Rihi said that he felt a bit relieved. 'In our case, it was a good thing – it helped a hell of a lot so far as healing is concerned. It answered a lot of questions.' Rihi's feelings towards Derek at the end of the conference were interesting. 'I felt a bit cheated. He was no mongrel or anything like that. Part of me felt okay because he was pretty well to the picture I had in my mind. At one stage, I was feeling a bit aggro, but [this feeling] got worn away.' However, Rihi had a warning for the court, 'The court is taking a really big chance. If he had said anything wrong or out of place, it could have backfired badly! It's not worth taking that chance. The person could be intimidated'.

2 Charles was asked whether or not his son, Billy, who was 12, would like to be interviewed. He felt that it might be quite good to allow Billy to talk to the interviewer in a face-to-face meeting. He said he would call the interviewer when Billy was well enough to have a visit. Unfortunately, contact was not made due to Billy's deteriorating health and other significant family events occurring as well. Billy has continued to make steady progress in dealing with the long-lasting effects of the accident, which include regular hospital visits and ongoing surgery. However, he has not been interviewed. His Aunt Paula reported that Billy wanted to buy Derek a little present after the conference as he had felt so sorry for him.

Ribi did not hear some things properly because his 'mind would follow what had been said before. Derek's letter, although it was read twice, it's like I never heard it'. As far as explaining how the offence had affected him, Ribi had this to say: 'I said what I felt at the time. I could have said more but finding the words...I said a lot more but stopped because I didn't want to take over'. As far as saying all he wanted to, Ribi, as the oldest of Helen's children, was mindful that he didn't want to set a bad example to the family, otherwise things could have gone wrong. At one stage of the conference, he felt Brad, the facilitator, was tempted to say too much, 'but we took it over from him'. He felt his brother Charles had a bit too much to say, repeating himself, but this 'brought home to me the state he was in'.

Ribi said that he accepted Derek's apology. It was his opinion that Derek understood how he felt. 'I think if he was looking and had his eyes open, and mind open, and was looking at Paula, Billy, and Charles, he saw injuries face-to-face. Sometimes I felt sorry for him, knowing he caused it.' He felt Derek showed them he was really sorry, 'as best he could...What shocked me was "Where's his parents? Where's his kaumatua?"'. While he felt supported by the other family members, Ribi was conscious he had his role of looking after everybody else. He felt better after the conference, and had noticed signs of recovery in family members. The conference had served to 'bring home' to him where everybody was at, particularly Charles and Paula. The bad feature of the conference was that 'they had taken a mighty big chance!'.

The issue of whether the conference met his cultural needs was discussed. Ribi noted that it did because they had set it up that way by having their kaumatua there. He was asked if it would have made a difference having a Māori facilitator. He responded, 'A Māori who was of a similar age or a bit younger would have been okay. An older Māori would have inhibited my ability to speak'. For some reason, he said, it made it easier that the offender was a young Pākehā. 'If he had been Māori, there would have been a difference. He would have had kaumatua, whānau. It was easier to get hard and tough on someone like Derek, as a Pākehā. It's a big risk, eh?'

Paula said that she shared Charles's curiosity about the restorative justice process and about Derek. She thought the conference gave them an opportunity to say how they felt in a 'sensible way'. She found it took all the hurt away. 'If we hadn't done it, the courtroom would have been a mess!' Although she was satisfied with what she was told before the conference, she wished she had thought to ask Derek if he had any previous convictions. At the beginning of the conference, she was quite overwhelmed. 'Stunned at him. He was so young, so nice-looking. I thought he would be a monster!' At the end of the conference, it was '...like a big weight had lifted off. For so many months, my energy had been used getting me better. It did me good'. She said that she went up to Derek at the end of the conference and hugged him. 'He could have been my son!'

During the conference, Paula said that she felt involved, so much so that she wondered if she had 'butted in' too many times. She said she was able to talk about the emotional pain at the conference, but did not talk much about the physical pain she endured, and continued to endure since the accident. Having the family there gave her strength to say what she wanted to say. She considered she was 'definitely' treated with respect. She did not feel that Derek was able to make up for what he had done, but she thought that he had been made accountable for his offending. 'He accepted responsibility.' She did not personally accept his apology, but as a family member she accepted it. His body language told her he understood how she felt and that he was really sorry.

The best thing about the conference as far as Paula was concerned was that it happened. There were no bad features. She felt safer after attending. Paula was satisfied with the accuracy of the report and pretty satisfied with the conference as a whole. She said that her cultural needs had been met. She left the conference with a

positive approach to restorative justice conferences in general: 'It's a wonderful thing to go to. It was sad Derek's mother had not been able to come'.

Tania articulated her reason for attending the conference as: 'Just to see him, hear his side of the story, to express how I was feeling, to support the rest of the family, and to help fill in some gaps'. Generally, Tania felt that they as a family were insufficiently informed before the conference about such things as the questions they could ask and about the fact that they could make a plan. She thought the objective of the restorative justice conference was to bring a more 'personal-feel' approach to the criminal justice system, rather than going to court and seeing the person on the stand. 'It puts a face to the name, a person to the action', she said. At the beginning of the conference, she said that she experienced very mixed emotions and, the closer the day of the conference came, the more the feelings came to the fore. 'The unknown was a fear, what could happen, how people would react. A state of shock: I learnt I still needed to do more healing.' She found she could 'eventually' look at Derek. But, at first, she thought he was the person who had taken a very special person out of their lives. She was conscious of still feeling angry. She still carried the mixed emotions at the end of the conference; in fact, she said she carried more pain than when she had arrived. She'd heard about how other family members were feeling. 'It was really emotional and deep!' She knew that in her heart she forgave Derek, but she would never forget. 'I hope he forgives himself and never forgets.'

Although never feeling too scared to speak, Tania said that it was, at times, difficult for her to express her emotions, because 'of the feelings'. Emotional safety was also an issue for her and she suggested that, in future conferences of that type and intensity, the participants should be allowed a two-minute break every 15 minutes to enable them to 'regather and refocus'. Tania admired Derek's courage and strength coming to the conference and was glad he had at least one person to support him. She thought he had been made accountable by turning up to the conference, but, as far as sentencing was concerned, she was unsure. She accepted his apology, and gave him a hug afterwards. There was enough support for her at the conference. She said that she had hoped that two of Helen's mokopuna would have been able to attend, as they were such a small family. However, the elders in the family had said 'no'. Although she learned from Brad that they could have written a letter to the conference, it did not happen.

Overall, as a result of attending the conference, Tania felt better. The good features of the conference for her were the opportunity to express how they had been affected, and to hear the other side as well. She considered it would have been helpful if, after a conference of that intensity, counselling was offered. The conference had brought back emotions. She used her own support to help her afterwards. 'Not everybody would have support available.' She would attend another conference and, if so, she would be more prepared.

The conference had taken care of Tania's cultural needs, but, if they had not had their kaumatua there to take karakia, she did not think Brad would have been capable. 'I don't think he understood the regret I had not being with my Mum when she died. Family gather there to say their farewells. Brad's response referred to everyone having guilt; this was a lack of understanding.' To cater for such a contingency again, Tania suggested: 'Within conferences, if it was at all possible, to have a person with spiritual and cultural understanding present would help, or if someone had had a similar experience'. Tania believed restorative justice conferences were an excellent process, but in recommending them to others she would counsel them to be fully prepared, both pre- and post-conference. She had not received information in the pre-conference stage, and this would have helped her.

Don thought that the conference was a 'good thing'. Wendy found the conference was 'really good' because Charles, Paula and Ribi had worked themselves up into a lot of hate and anger. The conference helped them realise they were 'being silly'.

Hone, the victim family's kaumatua, thought the conference was good. 'It was certainly fair; it was an open process. The opportunity was there for movement back and forward. It left the door open for possibilities, for further dialogue...It gave time for both parties to sit back and really think objectively.' When asked about its cultural appropriateness, he said: 'I believe it met the cross-cultural situation. Openness applied no matter what each culture needed. The most important thing was the ability to leave the door open to see it from different cultural perspectives'. He spoke highly of the way Derek 'handled' the crossover into the other culture – 'better than Charles. Ribi was exceptional. The rest were good, Paula and Tania both spoke very well'. He saw the potential in restorative justice to making Māori and Pākehā one people, New Zealanders. He felt the process, its practitioners and advocates, should become more visible to Māori, who would notice the efforts of Pākehā and Māori. 'It's being visible!' However, he noted that it was a sensitive area for Māori. 'The more times a Pākehā face is seen with Māori, the more acceptable they become; they become absorbed. That is better than transparency. Because we are the biggest client group, Māori should know what restorative justice practitioners are doing. In a perfect world, there would be no Maori offenders.'

Brad commented that he had had a number of concerns before the conference. These included: the degree of distress expressed by the family; Charles's traumatising (physically and mentally); having to work through Charles to reach the rest of the family; not being able to ask some very difficult questions pre-conference (given the conference was to commence straight after the pre-conference meeting with the family and an awareness of the need not to heighten their sensitivities); the geographic spread of the parties (which contributed to the preceding concerns and to Derek's delay in arriving for the conference); the input of Māori into the conference (in light of Charles earlier telling him that this was unnecessary); the disparity in the numbers of victim and offender participants; and the need for the original sentencing date to be deferred due to the family taking their mother's body to a special holiday place.

Brad considered the conference was very successful. He gave examples of 'some gems' such as the brother saying: 'I wanted you to be a monster but you're just a guy who's made a serious mistake'; the kaumatua stating 'the family is still grieving but you can tell there is a change in this grieving'; and Charles saying initially 'I don't want to talk to you' then giving Derek a hug at the end of the conference. He noted that the venue was not ideal – it was not a good shape and it did not have a second small room to allow for breaks. There was also a diversity in the eloquence in the participants. Also, Billy being present [at his age] worked out well, but this had had the potential to become a problem. Brad was glad the conference was able to 'roll on' during a stage when Charles was resistant. It was helpful using the co-facilitation model during the break, when he and Priscilla were able to each talk to one party.

Priscilla had a number of concerns before the conference. She had noted Charles's fragility and wondered how he would cope with the meeting. She regretted the lack of time to conduct pre-conference meetings with the victim's family; instead they had liaised with the various members through Charles. Derek was, according to Priscilla, understandably more than a little apprehensive, and he had struck her as having some difficulty articulating his feelings. She wondered if he would be able to 'get things out'. She also said that it was difficult walking into a room and getting a handle on all of the names. As the record taker, this made things somewhat difficult. However, overall, she felt the conference went remarkably well. 'People had room to say what they wanted to say, and the family felt well-supported. The conference achieved what it needed to.' Whether it was up to the facilitators to talk to Derek regarding his previous convictions was something she and Brad had talked about, she said. They decided against doing this as they felt that it went beyond their brief.

After the sentence...

Derek was sentenced to 300 hours community work, to 9 months supervision, including a course called 'Making Our Drivers Safe' and having general counselling if directed, to pay \$10,000 reparation at \$500 per month to the Cassidy family, and he was disqualified from driving for 6 months. The judge stated that Derek had 'from the outset acknowledged culpability, and that is a matter of significance'. He was 'a man of talent and promise', and he had expressed remorse for his actions. The judge did not consider imprisonment appropriate (and noted that, even if he did, the maximum period would have been three months). It was stressed too that the amount of reparation fixed was a 'token' and not an attempt to 'place a value on the life of the loss of a loved one'. In sentencing Derek, the judge also took into account his willingness to make amends by engaging in the restorative justice process.

Derek regarded the sentence as a fair one. He expected to get a longer period of disqualification and less reparation. Participating in the restorative justice system did not make him feel any differently about the criminal justice system, and his views regarding the restorative justice process and its effect on him as far as future offending was concerned remained unchanged. Terry thought his brother was now doing quite well. He noted, however, that the whole situation had left Derek a victim as well, because he had to live with what had happened and with his part in it.

Charles found that sentencing 'took its toll' on him. 'As the court session started, it suddenly dawned on me that nothing was going to change. I'd hoped I'd feel different. I had a great feeling of sobbing at the time. I didn't feel a huge amount of resentment towards Derek...I wish we knew about Derek's previous convictions. We weren't prepared for it – we would not have been so forgiving. The conference report painted Derek in a good light, but the report was not accurate!' When asked about whether the judge had taken his needs into account, Charles said. 'Nothing the judge said could have met my needs. He couldn't bring Mum back!' The sentence was fair, Charles thought, although the disqualification period 'should have been more'. As a result, he felt more negative towards the criminal justice system. He felt that attending the restorative justice conference had been necessary in their situation of trauma; it was part of the grieving that needed to be done. 'Derek did what he deemed necessary, to be there and take it all.' Charles again said that he would attend another conference if he were a victim again.

Despite his misgivings about the process being to benefit the offender, Ribi considered Derek had been able to make up for what he had done. 'After the conference, if he had gone to jail, I think it would have been an injustice. The \$10,000 will be very helpful; it will help us achieve something Mum wanted.' When asked whether he thought the conference report had an impact on the sentencing outcome, Ribi said he had his suspicions. Although he felt the judge had taken into account his needs, his views of the criminal justice system remained the same, 'not having had experience of it before'. His views on restorative justice were also unaltered.

Paula did not know whether the conference report had had an impact on sentencing, although she was certain that the report added information over and above the victim impact statement she knew had been prepared. She felt the judge's sentence was barely fair, sharing her brothers' views regarding the 6 months disqualification. Her views about restorative justice remained the same as they were pre-sentence. She spoke of a positive aspect of the sentencing day, explaining that, after sentencing, the Cassidy family had sat with Derek's Mum. 'That meant so much', she declared, 'to her and to us!'. Having gotten over the conference, the Cassidy family had had more time to think about suitable consequences for Derek's offending. She noted that they wanted Derek to talk to young people in schools, and to help work at their beach place.

Billy, at the time of sentencing, was seriously ill in hospital. When he recovered sufficiently, he asked what happened in court. He was glad Derek did not get a term of imprisonment, but shared the adults' concerns regarding the term of disqualification. Apparently, when he went to school, he informed the other children that the man who killed his grandmother only got 6 months disqualification.³

Tania thought the conference report affected the sentencing outcome because there were comments made and opinions formed on 'the basis of incomplete information, such as Derek's previous records. She commented: 'If we were fully informed about what could have taken place at the conference, it might have alleviated some pain we experienced after sentencing'. Examples she gave of the type of information that would have been helpful were Derek's previous history of speeding and his view on programmes. 'We only learned about these ideas after the conference. I said to Charles "I thought the object of the conference was to be totally honest".' She did not consider that the judge's decision had fully taken account of her needs. As with Paula, Tania thought the decision was barely fair. 'Is it fair to get a greater sentence for drunken driving than it is for killing someone?' Notwithstanding, she felt more positively towards the criminal justice system, in that she had learnt more about it as a result of the experience. Her views of restorative justice echoed her previous comments.

Wendy told the interviewer that they were all disappointed with the sentencing. 'His sentence was really borderline', she stated. 'It's made Charles really resentful, and it has made the justice system an ass. We can't understand it. His mother's life meant nothing! I know he [Derek] was only being stupid; we all do stupid things. But I don't think he has learnt anything...we felt let down at the end. It was the judge who let us down. Rihi said it was just a great big farce! The judge walked right over our mana!' Paula, who was generally a forgiving person, sometimes felt the same.

Don considered that the whole exercise had helped the offender more than it had helped them. 'We weren't informed this was his third or fourth conviction. It would have been different if we had known. What we heard at the court was a list...including drinking and driving. He was a time bomb waiting to go off! Disqualification should have been for at least a couple of years...the conference really helped him. We didn't want it to help him; we just wanted to ask questions and say how we had been affected.' Don thought they had all been a bit lenient on him. Apart from the lack of information and the sentence, everything else about the conference was 'okay'. His wife, Paula, was slowly getting better, spending most of her time in a wheelchair. However, she was able to walk with the assistance of a stick, crutch, or walker. She had started to go back to a weaving class.

Brad was present in court at the time of sentencing, a time he found 'absolutely consuming'. He said it felt as though the family expected the formal involvement of the criminal justice system might bring an end to the trauma, but that it was not over. 'During sentencing the judge referred to Derek's previous convictions. My perspective is we don't show or tell, but, if the family had asked before or during the conference, we'd have facilitated Derek telling them. Charles still thinks Derek has a dangerous or careless driving record, but he doesn't. I'm now in the throes of talking to Derek to provide Charles with a list of his convictions. Like the family, Brad felt that six months disqualification was surprisingly light. 'The rest was good.' When asked how much time had been spent on this case, he said that at least forty hours had 'gone in'. It was still ongoing. Brad also talked a little more about Derek. He said that Derek had resigned from a good job to enable him to complete his community service requirements, as soon as possible. He was also undergoing the 'Make Our Drivers Safe' programme.

3 This information comes from Billy's mother and Auntie Paula.

Priscilla considered the 6 months disqualification was insufficient. She said that reparation had been ‘shut down’ at the conference by the kaumatua, which left no room for them to canvass these issues at the conference. ‘But we did it by having another meeting with the Cassidy family after the conference. This was followed by emails to-ing and fro-ing. We liaised with Derek regarding these decisions so there were no surprises for him at the court.’ She also noted that Charles was very concerned about Derek’s previous conviction. There had continued to be contact with the family since sentencing.

According to Hone, the sentence given to Derek was rather harsh. He felt that the 300 hours community work was particularly so, and the \$10,000 was rather high. ‘I don’t see that Derek’s aroha was taken into account with the sentencing... The only thing that could replace Helen was the aroha; the love and respect that Derek showed us brought her back. That to us was the most important part. We really believe that love goes throughout the whole spectrum. He really said: ‘I’m sorry’. That crosses so many boundaries; it really meant: ‘I didn’t mean to do it’. The spiritual thing means so much more than money...it’s the wairua – the treasure for us is that he came and said he’s sorry.’

Twelve months later...

Derek was living in Australia at the time of the follow-up interview. When contacted by telephone, he refused to be interviewed.

Charles still remembered well how he felt at the conference, though not what he said or heard. He said that he was now very dissatisfied with the conference and fairly dissatisfied with the conference plan. He believed that the only positive thing to come out of it was that the conference provided a forum for the family to talk about how they felt. He totally agreed that conferences were designed mainly for the benefit of offenders. He was also very dissatisfied with the judge’s sentence: ‘it was an injustice’. He said ‘despite the forum to speak, it didn’t matter. The offender got off scot-free’. Overall, he regretted taking part in the conference. He felt that if the family had not attended, the sentence would have been different: ‘the conference enabled the offender to come off lightly. I regret that’. He went on: ‘it was the system that failed us, not the agreement. If I was able to change the agreement plan, I would have sent him to jail for 12 months with no parole’. Charles also expressed dissatisfaction with the method of payment for the reparation: ‘I had to chase it up with the courts. I was passed from one department to another...I was horrified I had to go through all that – it brought it all back to me’.

Charles said that meeting Derek at the conference was a major upset. He now felt more negatively about him because he did not do what he was supposed to do. Indeed, his overall impression of Derek now was that he was a bad person (though Charles acknowledged that he might have felt differently if he had paid the reparation). Charles also said that the offence still had a pretty high impact on him and that he thought about it weekly. He considered the offence was partly behind him but this was because of the things he had done for himself. As a result of participating in the conference, Charles now felt more negatively about the criminal justice system and about conferences. He said that he would not recommend conferences to others and would not attend one himself.

Paula recalled the conference immediately, saying ‘the meeting was awesome’. She regretted, however, that Derek had not told them about his driving record. She said that she was reasonably satisfied with the conference overall and saw it as benefiting both the offender and the victim. However, she said she was very disappointed with the conference outcome and with the judge’s sentence. The whānau, she said, wanted ‘to make good out of Mum’s death and for Derek to pay \$10,000 for Mum’s beach house. He paid about \$300

and then he went off. We've been really disappointed'. She felt that this was 'shocking. Not so much the money, more that he was able to get out of the country'. She also felt Derek should have lost his licence for longer. She said that she now felt more negatively about Derek because he did not do what he was supposed to. Paula said she still thought about the offence weekly, it still had a pretty big impact on her and it was only partly behind her. However, this was aided by her participation in the conference, as well as the things she had done herself and the passage of time. Paula now felt more negatively about the criminal justice system: 'I feel we've been given a raw deal'. However, overall, she remained positive about the idea of restorative justice conferences and would recommend them to others. She said that she might go to another one herself, but added that she would be 'more defensive and less likely to open up'.

Tania also recalled the conference immediately, pointing to its emotional content, 'both positive and negative.' She also regretted that Derek had not told them about his driving record. This made her regret taking part in the conference. She said that she was neither satisfied nor dissatisfied with the conference overall and saw conferences as benefiting offenders slightly more than victims: 'we had an opportunity to voice our opinions'; however, she added that 'it would have helped to have understood more about reparation before the conference'. She felt that victims who participated in conferences needed more information, especially about reparation, and more follow-up and support services. Tania was very disappointed with the conference outcome and the judge's sentence. 'We felt we had control of the situation at the conference, but after that it went.' She continued: 'Derek reduced the payments he made without consulting with us and now he has gone off to Australia and stopped paying. Charles and Ribi followed up on that, but it wasn't their job'. Tania felt 'annoyed and frustrated' about this and felt that, if reparation was not paid, there should be some follow-up and Derek should go to jail. Tania also felt more negatively about Derek because he had not done what he was supposed to: 'I trusted in him and in the process'. She said that she still thought daily about the offence, that it had a very high impact on her. It was only partly behind her. 'It's not holding me from moving forward. It just brings my emotions to a high level.' Although Tania would recommend restorative justice conferences to others and might attend another one herself, she now felt more negatively about the criminal justice system.

Both Ribi and Hone died before the follow-up interviews were conducted.

Case Study K

The offender, Mathew, was almost 21 years old when he and a co-offender burgled five properties in his neighbourhood over a period of a few weeks and damaged one further property that they were intending to burgle. Of the six victims contacted, three agreed to participate in the conference. They were: Sally, a single woman who worked in the small community as a beautician, Karen, another single woman who worked as a receptionist to pay for her studies at university, and Puna, a married man who worked as a periodic detention supervisor. Two really wanted to meet Mathew, but one was less enthusiastic. The facilitators noted a high level of emotion among the victims during their preparation for the conference. Mathew did not know the victims before he committed the offences. The facilitators were Paula (lead facilitator) and Clarissa.

Mathew, Puna, Bruce (Mathew's probation officer) and Paula were Māori and all the other participants were New Zealand European. Clarissa and Bruce were the only participants who lived outside the small community in which the offences occurred. This case study describes a cross-cultural restorative justice conference. Factors of particular interest include the different responses victims can have to offending, the intense pre-conference preparation which involved many hours of work (and travel) by the facilitators, the impact of the offending on relationships in the neighbourhood, the influence of this restorative justice conference on a recidivist, and the role played by, and the perceptions of, the probation officer.

At the conference...

Mathew and his mother, Heather, were asked to arrive fifteen minutes before the victims. This was so Mathew could show commitment to the restorative justice process. It also served to keep the victims and the offender apart until it was time for the conference to start.

The conference room had a trolley of refreshments at each end of the room. Chairs were arranged in a semicircle. Sally brought along her boyfriend, John. After Sally, John, Karen and Puna were all gathered in the foyer, they entered and sat opposite Mathew and his mother. The probation officer, Bruce, sat outside the semicircle as an observer.

Paula opened the conference with a brief mibi. She gave an explanation of the purposes of the conference, which, she said, were to assist the victims to gain understanding of how the events came about. She thanked everyone for attending, commenting that most of the work had been done before the conference. Paula explained confidentiality which, she noted, was unenforceable, but should be respected.

Paula noted a prior arrangement with the participants that she would give a 'prompt' if something important had been omitted. The facts of the charges were then briefly summarised. Paula checked with Mathew whether he admitted them. He did. Paula then invited Sally to start with her statement to Mathew, as she had been the first person to be burgled.

Sally described her experience of coming home to find that it had been burgled for the second time in two weeks. She asked: 'When is it going to end? How dare you frighten me in my own home town? Where do you see your life going? Prison? A life of crime?'. Sally nodded when Paula asked her if she wanted Mathew to respond. Mathew replied: 'I didn't really want to do it. I was just out of money at the time.' Sally asked him how he thought his mother felt, giving up her time to be at the conference. 'Do you think that's what she wants for her son? A life of crime?' Sally followed these questions with one about what she was to do when she saw him in town. Was she to give him a 'clip around the ear? That's not going to do any good!'. Although her words were strong, Sally had tears in her eyes. It was evident she was deeply upset.

Sally asked Mathew if he had burgled her the first time. Mathew denied responsibility. She then asked him if it was his co-offender. He said: 'Maybe'. Sally then asked whether or not Mathew had told the police his name? He said that he had, but that was all he could do as he feared reprisal.

Sally's boyfriend, John, was invited to talk about the effects of the offending from his perspective. He replied: 'What you see here'. He inclined his head towards Sally. 'Since the offence, the whole house and its dynamics have changed. Just coming to terms with it.' He described his impression that the second burglary was quite professional in a variety of ways. 'You must know your trade pretty well.' He asked Mathew how he got to where he was and why he chose to do it again and get caught. Paula rephrased this before Mathew was asked to reply.

'When I was young I was into shoplifting and it started to turn into a buzz; then it just went more serious to become a habit.' He paused. 'Yeah, not so much a good buzz, you always get the bad side if you get caught.' John asked him what he would have done if someone had been there. Mathew replied that he would have made sure no one was there. 'What if they came?' 'I'd run', replied Mathew. He was then asked to consider what he would do if he was cornered.

Paula clarified the thrust of John's questioning. 'You would not resort to violence?' Mathew said he would probably stay there. John explained. 'That's just one of the effects! Going into the house is scary. Maybe there's someone on the premises again!' Sally resumed. 'It's not something I want to go through again.' Paula reminded her: 'You also said fear led you to leave lights on'. Sally replied that this was while she was sleeping. 'You also said you don't know what to say to clients', prompted Paula. 'Do I say I know that guy, tell them his name?' Mathew replied clearly: 'No'. Sally went on: 'Life's too short. And your Mum too. If she comes into work, how do she and I treat each other? Through what you've done, you've affected a lot of people'.

Paula turned to Mathew's mother: 'Heather?'. Heather responded. 'That's one of my concerns.... I hate him doing these things. It is not like the way he was brought up. It's peer pressure. It's not the Mathew I know. I hope he'll wake up and I'll find the Mathew I know.'

Karen was invited to speak next. She opened by stating that she had figured she would get broken into, given that she was a single woman living by herself and was away at varsity so much. 'I've had so much shit happen', she said. Discovering things lost made her angry. 'I got some nice stuff; I work all weekends, study all week – all I had I've worked hard for. My insurance only covered some stuff, not my partner's.' She noted that the insurance paid \$70 for shoes worth \$250, and that she lost the insurance excess of \$250. All she wanted from him was the excess. She suggested that replacing 'the buzz' with bungy jumping might be better for Mathew's future. She talked to him about karma, suggesting that what goes around comes around. 'You might hurt someone you really care about, like a wife!... The more you do it, the harder it is to quit.'

Mathew replied: *'That's what I'm going through at the moment. I don't want to do it. Every time, I think about not doing it'. Karen asked him if drugs and alcohol were a problem for him. 'Not a problem, but I do drink'. He explained that he was trying to get his car fixed and he couldn't get the money for it. Karen empathised: 'I understand these pressures'. She then enquired about particular lost items and whether he had seen them in her house. He told her he had not entered her house. Instead, he was outside transporting goods away.*

Paula guided the discussion to the third victim, Puna. He and Mathew had already sorted things out, he said, and he had attended the conference simply to be a support person for the two women. He explained that once he knew who the offender was, and realised that he was a neighbour and Māori, he approached the situation in a traditional manner. *'I went to see him and was greeted by this big snarling dog, and saw Mathew. I told him: "You stole my stuff and I want them back. You've got two days and then I'll return." Two days later I visited – he had a couple of my things.... A few days later...I got more stuff. I met his parents and shook his parents' hands to let them know that I was the person their son had violated. That helped and I did get some stuff back... I see him quite a bit; we've had a couple of chats – now I know him a bit better...I fear for Mathew. He's been inside; he's becoming a career crim. He's pretty bright, heaps of potential, but he seems to accept that is his life at the moment. My partner does not feel safe so we are moving. The violation means home is no longer a safe haven. I see Mathew's Mum every day at 6pm. She works hard. I asked him how he would feel if it was his Mum's stuff that was stolen... I can hear remorse, but, if it was true remorse, he'd get your stuff back... I hope, Mathew, that you stop this. Worst of all, you've hurt your own family. She [Mum] does not deserve that.'*

At this point, Mathew's mother, Heather, became quietly tearful. *'Did you take my black bag?' Puna asked. 'Yeah' replied Mathew. 'Bring it around and mow the lawn; the grass is getting too long!' Mathew nodded. Puna concluded with, 'I believe in this process. You can express your anger, you can move energy, and then you can get on with life'.*

Mathew was invited to respond to Puna. *'I want to say how sorry I am for what I've done to you people. I don't want to. I don't like this time wasting. I want to make a stop to all this carrying on, but it may take a while.'* The last sentence became a catalyst for more serious talking. Puna stated emphatically: *'You don't have a while! We don't have a while! Do it now!'*. Paula explained to Mathew that Puna doubted his sincerity.

Karen made a more empathic response. She acknowledged: *'It takes a while'*. She tried to explain that Mathew was the one who stood to benefit the most. *'You've just got to figure out what gives you more passion! I totally don't think you are evil! ...You can stop stealing today. Concentrate on something different; something positive... But don't set goals that are too high... Some of my friends have been in jail. They don't like it! Prison often just reinforces what you do now. You come back harder. You come back with a shell around you. Maybe you just need to find a new crew, people that really support you.'*

Paula once again suggested to Mathew that the people present were not really happy with his response, particularly in terms of him making a new commitment. She suggested that Mathew might need a little time to prepare a respectful response. Puna did not meet this suggestion favourably, indicating he had spent enough time on Mathew.

Mathew was still uncertain. *'I'd love to say 'No'. But anything can happen... I just give up on myself at times... At the same time, I don't want to do it... I feel I can stop it right now... I lost my job. I gave up on myself, stopped having money. By the time I got to this, there was no dole....'* He then became more

confident. 'After the court case, everything should be looking up for me. I have two jobs ready for me if I don't go to jail. I'll make the best of this one...the best of this.'

At this juncture, the probation officer, Bruce, was asked if he could comment on the likelihood of Mathew receiving a term of imprisonment. He said that it seemed that there was quite a strong likelihood of imprisonment, given Mathew's recidivism, and 'where he was at'.

Karen engaged Mathew in a discussion about the merits of deterrence, concluding it had not worked in his case as he had already been inside. 'In that sense', she said, 'the system failed'. Mathew responded: 'I'm glad I got caught. If I wasn't, it might have got bigger. Something could have happened. I could have gone to jail for murder. However, I was bombed out; I got caught. I'm scared of going to jail'.

Mathew's mother then turned to him and said: 'You give me a picture. There's you and you. You're over there analysing this person over here. You're the same person! ...It's a decision you make – yes or no!' Mathew responded: 'I know what you guys are saying'. Sally then declared: 'You need to make a promise in here,' [she patted her chest] 'to yourself'. Karen added: 'Not to us, not us, to you. 'Cos you'll still hurt others'. Karen asked him if he thought it was going to change him. Mathew replied: 'I just got to have enough mana inside myself to say 'No'. I already know I've hurt people'.

Karen told him he had a 'huge amount' of power and that only he could change himself. 'You need to be able to do something that makes you feel good and that you can sleep with... I understand the pressure to be staunch. You don't need to be like that. We are here for you, too. We have the power to help you. I just feel you could really do something. Don't say you're going to do it again! Say: "Not today. Today, I'm going to work." A day at a time. Reward yourself each day for achieving not ripping someone off!' Mathew's mother added: 'Don't give yourself an excuse before you've even started!'.

Karen continued, referring to people's perceptions that he was a criminal. 'I like to surprise people; prove people wrong. You can do that. If they still judge you, then they're not worth knowing. They might not be such good friends.' Puna followed this theme. 'Please, for everybody's sake, don't give up on yourself.'

Clarissa then spoke for the first time. Directing her comments at Mathew, she stated: 'I'm quite moved. I hear a huge amount of caring for you as a person'. At this point, Bruce indicated he wanted to speak. He moved into the circle. 'There's another victim here. She's sitting right beside me'. He turned to Heather, who started to cry quietly. 'In the last half hour, you've all tried to get Mathew to give an answer to the issue of the co-offender's name. These people deserve to know the co-offender's name. The police know. But that's where Mathew is at. I will be carrying this on further at interview with Mathew and his mother. Maybe tonight will be time for Mathew to reflect.' He addressed Mathew. 'If you think these people are not hurting, especially Mum, then wake up and smell the roses. Your options are extremely limited. At the end of the day, we are all here to help you. This should be the start of a new beginning for you.'

Further discussion ensued about the co-offender, whether he lived in the same community, what stolen goods he had, and the safety implications of Mathew making a disclosure to the conference. Mathew's past term of imprisonment then became the focus.

Heather addressed the conference. She told those present that Mathew had a lifetime habit of giving up on himself, which she considered related to his sense of self-worth. She swivelled around in her seat to look directly at her son. 'You just don't believe you can do it! Look what you can do when you do believe in yourself. I'm proof of that. Look at where I am now with my work!' She explained Mathew's employment history to those

present. After leaving prison, he had gotten himself a job, then a car. 'He lived and slept in it and got himself \$1000 in fines! That's what started this roller coaster.' She then turned to Mathew again. 'They are your choices and decisions. You don't believe me when I tell you you'll get caught!' She went on to explain that after one week in that job, his hourly rate increased from \$8.50 to \$13 per hour. Then he left. Mathew interjected. 'You know why I didn't go back; he wasn't paying.'

Clarissa, as co-facilitator, took this opportunity to discuss reparation. This involved what the victims wanted and how realistic these wishes were. Karen responded: 'I don't want to make your life miserable or for you to give me all the money I've mentioned. I don't want to mess you up'. Paula asked Mathew if he was in a position to make a commitment to weekly payments, noting that, if he was given a term of imprisonment, these might not be fulfilled immediately.

At this juncture, Puna got up to leave, reiterating his request to Mathew to bring back his black bag and to mow the lawn at 4pm the following Tuesday. He added: 'Please do not give up on yourself!'

After Puna left, more dialogue about the co-offender occurred. Heather expressed her concerns about the request that had been made of her son. 'I just do not want Mathew to become known as a nark. Mathew has named him – it's up to the police.' After Karen asked if Mathew had offered to take the rap for the co-offender, Paula asked Mathew to leave the room with Bruce for a few minutes.

While Mathew and Bruce were out of the room, Clarissa observed that the co-offender issue seemed to have come to a dead end. Karen commented that she felt the process had been good, hoping that Mathew had taken notice of what had been said. The initial specifics of reparation were discussed and written on the whiteboard for discussion with Mathew on his return to the room.

The proposals, which were discussed with and agreed to by Mathew, were as follows: Mathew was to mow Puna's lawn on Tuesday at 4pm and return the black bag; to pay Sally \$20 or do four hours community work at the local council gardens; to pay Karen's excess of \$250, and \$320 for her sunglasses; and to go to the co-offender's house to see if property could be retrieved. If none was found, Karen was happy for him to do community work at the SPCA.

Once Sally's reparation had been discussed, she and John left, leaving Karen to discuss her reparation needs with Mathew. She then left, leaving the offender and his mother with both facilitators. The conference had taken two hours and forty minutes.

After the conference ...

Mathew's responses were slow at first, but warmed up as his interview progressed. He thought the restorative process was like marae justice, a means of helping people before court. He experienced a number of feelings throughout the conference, including being 'put on the spot', and being sorry for what he did to the victims. He also said he felt sorry for himself, experiencing moments of self-hatred about the things he did and what made him do them. Meeting the victims made him feel nervous at first; however, this changed to what he described as a 'flowing' feeling, where 'things were opening up, it was all in the air, getting it out'. At the end of the conference, he felt disgusted with himself because 'they seemed like very good people'. He observed: 'People think people rip off people's houses because they hate them, but I didn't. It would have been better to knock at the door and ask them if they had some work to do'.

Significantly, Mathew thought the conference led him to talk 'more than he had done in ages'. When asked if he had had the opportunity to say what he wanted to, he felt this was partly true 'because I don't know how to show remorse'. Mathew's mother interjected here to explain that he was not sure whether his feelings were the same as other people's. He said his mother's presence had made him feel more comfortable, although he would have liked his father to be there too. He said he expected the victims to be tougher on him when the plan was being discussed.

When asked about his cultural background, Mathew was able to identify his iwi, but otherwise knew little. He understood that the restorative justice process was 'just new', commenting that he thought it was good and should be carried on. 'It may help some people.'

Heather first heard about the possibility of a restorative justice conference from Mathew at the same time he told her about the offence. She went along because she 'saw some really good things happen as a result of the pre-conference meetings, which made Mathew think'. She stated she also attended because she wanted people to realise he was not as bad as his actions. During the preparation phase, she said that she was told exactly what would happen and the conference had followed these lines. However, Heather noted that she could not fully prepare for other people's reactions. 'It was everything I imagined it would be.'

Her initial feelings of being embarrassed, nervous and sad improved over the period of the conference. She did not feel as embarrassed because Karen had made her feel comfortable, through her ability to depersonalise events. A pre-conference anxiety that the victims might ask the question like 'what have the parents done to cause the offending?' did not eventuate. She felt respected and fairly treated. She 'always' felt ashamed and she just didn't understand Mathew's offending. Her attempts to analyse his behaviour had produced no answers. She felt very frustrated. Heather observed the forgiveness of the victims. She wondered if this was due to them not being aware of the penalties 'out there'.

The only negative feature she observed about the plan and the conference were their fragmented nature at the end. People said what they wanted to and then left. However, on the good side, Heather commented that it was good that there was a conference, adding a little wistfully that, if 'they' had been around ages ago, maybe Mathew would have been closer to 'having that wire joined' (a term she used a number of times, figuratively speaking, about to her son's head). When asked whether or not she considered that Mathew would be prevented from reoffending by participating in the conference, Heather noted: 'There's a whole heap of bits and pieces to be sorted out in his head. The restorative justice conference helped him to sort out one or two... It did make him think and see the effects of what he had done'.

Almost the first thing Sally expressed was cynicism about the process, due to the fact that Mathew had reoffended since the conference. She had since learned that Mathew had a long list of convictions. She did not believe restorative justice suited recidivists. At the time she agreed to participate in the conference, she understood that he was a young inexperienced offender. Nevertheless, she appreciated that the facilitators had genuinely wanted to make a difference to their community.

Sally said that she had felt quite 'wound up' at the beginning of the conference, in keeping with her usual response to any confrontational situation. She felt a little bit apprehensive about meeting Mathew, preferring not to know who had been in her home. Although she considered the conference went on too long, she reported feeling a lot more relaxed at the end. 'He wasn't a great big monster, just a young guy who wasn't very smart.' She felt the reason the conference has gone on so long was because they (the victims) tended to talk longer than they could have. She saw this as a function of them being lay people, compared with what 'professionals' would have done.

She was clearly disappointed about Mathew. She had been very satisfied with the agreements, but she expressed doubt about the sincerity of his apology. Sally was frustrated about the question now resting over the outcomes agreed to. Notwithstanding this, Sally now felt safer at home, knowing who he was. She felt the overall concept of restorative justice was good for the 'right people'. When asked if she was pleased she had participated in the conference she replied: 'indifferent'. She would not do it again.

Karen was interviewed after sentencing. As a result, her responses reflected a later perspective. She said that she did not feel threatened in any way when attending the conference. But, at the end, she felt she 'had a view into his life', leaving her feeling a little sad for him. She did not consider Mathew had been able to make up for what he did, even though he was given the opportunity. Of his apology, she commented: 'I think he was under quite a bit of pressure to apologise. I am not sure it was necessarily what he wanted to say. I accepted his apology at the time; it was genuine at the time. I think he was sorry for his life'. Karen did not consider Mathew could really understand how she felt because they were 'from such different places'. She thought it unlikely that he had the capability at that stage. While moderately happy with the plan, Karen commented she would have been happier if it had been followed through; it was too soft on enforcement.

Karen was positive about the process. 'I thought it was good we were given the option of saying what we wanted as an outcome, instead of the usual court decision.' She went so far as to rate the conference with top marks. She was glad she attended and expressed a hope that one day Mathew would understand.

Puna refused to be interviewed after the conference, as did John.

Despite her many concerns beforehand, Paula considered that the conference had been successful, mainly because the victims covered everything they wanted to. 'It didn't seem a major issue that he didn't answer the offence victims' questions straight away. All I wanted was an engagement in discussion which was considered by Mathew. I knew the victims were there solely to vent their rage. They did that generously. Mathew was stunned that their anger was so gentle. He's been able to look at the things he raised; to see things differently.' Paula considered that 'rather than an outcome being important, the most important thing for the victims was to direct their anger at Mathew'. She illustrated this point with the fact that both Karen and Sally had offered community service to Mathew as a means of keeping his financial reparation obligations to a minimum. This was generous and showed a change in perspective that occurred during the process. This 'made Mathew approach the agreements with maturity'. At the time of Paula's follow-up with the participants, she said she understood that, for Mathew, the process was 'affirming', and that Sally was 'now feeling much better'.

Clarissa stated that everyone related on a 'human level' and that the process was 'humanising'. She also said that she had concerns about Sally's vulnerability. However, having more than one victim there and her own support person was really good in her case. She was worried about the victims really going out of their way for the offender, particularly by giving their time.

Clarissa's perception of the success of the conference centred on the 'unexpected things' that came out: for example, 'this guy going back into the criminal world had the possibility of committing a murder'. This was explored and Mathew surprisingly did not seem to be too scared of this possibility. Throughout the conference, the issue of where Mathew was headed was brought up: he was affirmed as a good guy with potential and a future. She added: 'somen'here, a seed was planted'. Clarissa felt he opened up honestly in front of the victims because he was thoroughly prepared. She expressed amazement at the way the conference went, which was only marred by the lack of closure of the meeting. Clarissa could not have wished for anything better.

The probation officer, Bruce, said that, after seeking permission from the restorative justice coordinator and his manager, he accepted the invitation to attend the restorative justice conference. This enabled him to observe the response of Mathew to the victims and to learn about the effect of his offending on them. It also meant it was not necessary to interview the victims later. As a consequence, this minimised their re-victimisation.

As a Māori, he described the process as 'quite sanitised', and not at all reflecting an indigenous process. He considered that the room was full of 'victims', whose needs were not met. As an example, he cited Heather, whom he felt would have been assisted by an early acknowledgement that she was a victim in the process. The 'letting of emotions' was 'constrained', which he described as a 'clinical limited version'.

Bruce expressed a real concern about the process. He did not want it to become like the family group conference, which he also saw as sanitised. This pilot, he stated, showed major differences from Māori restorative processes, missing 'lots of small, peripheral stuff that helps people connect', which enabled closure. One example was the act of greeting one another on arrival at the conference, the hugs and handshakes. Of the layout in the conference room, he observed: 'There was a gap of 10 feet between the two groups (the victims and the offender and his mother). They talked at one another not with one another!'. He noted also the lack of closure on some issues; they needed more time, in his view – time some of the victims were reluctant to give.

After the sentence...

The judge commented on the number of burglaries committed by Mathew (and an associate whom Mathew had not named) and noted that a significant amount of property had been taken by them. He commented on the number of convictions Mathew had for someone of his age and the fact that he had already served a prison sentence for burglary. The judge then referred to the restorative justice conference and noted that a number of victims attended this though others did not. He noted also that Mathew seemed to have started to see the effects of his offending on others. He had been able to offer some reasons for his offending. The judge acknowledged that a 'number of good things had emerged' from the conference but added 'the huge issue was whether you would stop doing this. You were not able to give that reassurance to the persons present or to the probation officer, or even to your own family, and that is a significant matter when looking at sentencing... Imprisonment is the appropriate sentence and the only sentence really available to the court today. Burglary is serious and you already have burglary convictions'. The judge hoped that the conference was 'the beginning of a process' for Mathew and that he would 'start making some better choices'. However, he went on: 'when looking at sentence, however, there has to be a real deterrent aspect to it'.

In deciding the length of sentence, the judge took into account Mathew's age, his participation in the conference and that there was 'some hope' for Mathew if he decided that he wanted to make some changes. Mathew was sentenced to twelve months imprisonment: in the judge's words, this was 'less than what I would have done if not for some of the things you have done since this offending occurred'. Leave to apply for home detention was not granted because the offending was serious, Mathew was considered to be at high risk of reoffending and there had to be a deterrent aspect to Mathew's sentence. The judge also ordered reparation to three victims amounting, in total, to \$940.00.

Mathew was even more positive about restorative justice after sentencing. Without that, he said, his lawyer thought he was looking at a possibility of 'doing a few years'. He would recommend the process to others. 'It sort of makes you think about your actions more than you normally would have.' He hoped it would prevent him from offending again.

Heather observed that the judge was 'extremely good' and appeared to understand why Mathew could not say that he would not reoffend again. Mathew was given credit, she felt, for participating in the restorative justice conference.

Karen thought the restorative justice conference had a 'little bit' of influence on the sentencing outcome, 'because he had to pay me some money'. She considered the judge's sentence was reasonably fair, but was disappointed that Mathew was not required to do 'something with more meaning'. She felt much the same as before the conference about the criminal justice system. Restorative justice conferences were 'definitely' a good idea but they needed 'a bit more fine tuning'. Her views on recommending the process to others remained unchanged, along with being involved if she was a victim again.

Sally was not interviewed until some eight months after sentencing. She viewed her experience with restorative justice as a waste of time. 'To be honest, I think the programme is designed for young people who have done only one or two things wrong. Repeat offenders like Mathew should not have a conference.' She thought the judge's sentence was quite fair. Participating in the restorative justice conference had not changed her perception of the criminal justice system. She again said that she was sceptical about restorative justice conferences, but would recommend a conference in the 'right circumstances', that is for young people with little offending histories. By the time of this interview, Sally and her partner John had moved to a different house, for a variety of reasons, including the burglary. John again declined to be interviewed.

Paula considered that the sentence imposed on Mathew was really fair and responsible. She noted that Heather was pleased and relieved, although somewhat disappointed he would be in prison for his 21st birthday. Apparently, during his term of imprisonment, Mathew telephoned Paula. At that time, he was ill in hospital, after having a cancer scare. She said that Mathew had also called after leaving prison. He did not return to the district, however, as he decided that he would be in a better situation elsewhere to consider what he wanted to do with his life. Significantly, Paula thought his 'scare' might have provided him with an added incentive to evaluate his prospects and make the most of his life. However, she added that Mathew did not complete the reparation payments that he had started before going to prison.

Clarissa thought the sentence given to Mathew was fair. She was not surprised by it, given Mathew's lack of commitment to any course of action, despite the opportunities created for him at the conference. She thought it was difficult for judges in such cases, but considered the judge had balanced Mathew's lack of commitment against his willingness to attend the conference to allow the victims an opportunity to speak to him.

Twelve months later...

Mathew's clearest memory about the conference was one of the victim's asking him whether or not he was going to offend because, if he was, he (the victim) was going to get two dogs. Mathew said that he wasn't sure and so the victim replied that he would get three dogs. He did not see this as entirely negative as he felt the victim was trying to scare him off reoffending. Mathew felt that the conference had had an impact on him: 'it made me think more wisely, to think harder than normally'. However, Mathew did not complete all the reparation he had agreed to at the conference because he was given a prison sentence. Mathew also said that he had reoffended since the conference 'because he knew he was going to jail anyway'. He did not think that doing anything at the conference differently would have prevented him reoffending.

Even 12 months later, Karen recalled the conference as 'very intense and very draining'. She said now that she was not especially satisfied with the conference overall and was pretty dissatisfied with the plan. She thought that the agreement was good but did not think that there was any willingness on Mathew's part to do anything. The fact that Mathew had not completed the plan agreed to and had reoffended soon after the conference made her regret taking part. She felt that conferences should only be used for first time offenders or for young people. She was not sure what could be done with a boy like Mathew. Although Karen found meeting Mathew at the conference pretty upsetting, she said that she felt more positive now. She had run into him about two months previously and he had told her that he was working some days. She added: 'I just feel sorry for him'. She still thought about the offence occasionally and still rated its impact quite highly, but she did describe it as all behind her now. She thought the passage of time and her participation in the conference had helped with this. However, she said that she would not attend another conference 'because I would question the value of it to myself'.

Sally also immediately recalled the conference, adding 'I thought I was going to make a difference'. She said that she was reasonably satisfied with the conference overall and totally disagreed that conferences were designed primarily for offenders: 'it was equally good for both parties'. When asked how conferences could be improved for victims, Sally felt that there should be more feedback on what was happening to the offender. Indeed, Sally was unable to say whether or not Mathew had completed the conference plan and so declined to say how satisfied she was with it now: '[it's] hard to rate because I don't know what else he's done because there is no feedback'. She also said that she had not yet received full reparation: '[it's] not regular or on time; just ad hoc'. However, she added that she felt 'good' about this as she 'didn't expect it, it was a pleasant surprise'. Sally was very satisfied with the judge's sentence. She described the offence as having no impact on her now. It was all behind her. She thought the passage of time, the things she did for herself and her participation in the conference had all helped with this. She said that she felt much the same about the criminal justice system, but described restorative justice conferences in positive terms. She would recommend them to others and would attend another herself if need be.

Case Study L

In this case study, the offender, Edwin, a Māori man aged in his early 50s, was charged on five counts of theft using a document to gain pecuniary advantage, involving a total of more than \$4500. The victim was the taxi company Edwin worked for. It was represented at the conference by Michael, the manager, and Andrew, the operations director. Initially, Edwin claimed he had not committed the theft, and relationships between him and his employers were somewhat strained because they felt certain they had proof. Edwin's union representative, David, had defended him before the charges were laid, and his relationship with Edwin too became strained. Michael asked David, Richard, the depot's team leader, and Marcel, a union member, to attend the conference as they had been directly involved in the situation at work. Edwin invited no one, but Marcel saw himself as a support person for Edwin. He was not a friend, but someone he had 'had a lot to do with'. The case study shows how the separation between victims' and offenders' support people can sometimes be blurred and that the offender's non-appearance at sentencing impacts markedly on any goodwill which emerged at the conference. The facilitators were Suzanne (lead facilitator) and Gillian (co-facilitator).

Before the conference...

According to Edwin, the idea of attending a restorative justice conference was his lawyer's. This was agreed to by the court after Edwin had had a meeting with the restorative justice coordinator. Edwin stated he agreed to the restorative justice conference because he did not have 'any faith with the justice system dealing with the problem. I felt I had to face my victims'.

The facilitators were given the referral at a time when Gillian was unwell. This meant that Suzanne did the pre-conference meetings on her own. However, she consulted Gillian by telephone after each meeting. Suzanne described Edwin as very articulate but as almost too eager to face up to his workmates. 'Was this to be a hero? Was he for real?' she asked herself. She talked it over with Gillian, and they decided to give Edwin the benefit of the doubt and proceed to the next step of interviewing the victims.

Suzanne next met with Michael and Andrew. She found them sceptical because, during the time they interviewed Edwin about the offending, 'he was just a brazen, barefaced liar'. Suzanne said she got a strong impression that they were business-like and had no time for 'touchy-feely type stuff'. However, in the end, Michael agreed to attend the conference because his superior directed him to. Andrew felt he should support Michael and the depot.

Once it was agreed the conference was to proceed, Suzanne had to arrange it and prepare the participants. Edwin suggested that the depot would be a good venue, but this was not agreed to by the others. He was told that it would be held in the local community rooms. Edwin was given information about what would happen (including written information), and what he would have to do at the conference. He was quite satisfied with his preparation. Michael and Andrew were asked where they wanted the conference to be held, when it should be and who should attend. Michael, however, did not feel he was given enough notice about when it was to be

held, and both he and Andrew felt they were 'sort of' told what they would have to do. They had expected it to be around a table, rather than everyone seated in a circle. However they were satisfied with their preparation for the conference.

Michael, the day before the conference asked David, Richard and Marcel to come. For David this was not enough notice. David was also very dissatisfied with the preparation he was given before the conference. He said he was 'told nothing'.

At the conference...

Suzanne opened the conference by explaining that having a prayer at the beginning had been discussed at the pre-conference meetings and declined. After introducing the researcher, who was seated outside the circle, she invited all present to introduce themselves and to say what their role was. This completed, Suzanne thanked everyone for coming. She gave a brief outline of the ground rules: 'We're not here to judge anybody. Edwin is here because he is regretful for what he did. He's fronted up to apologise'.

Gillian read the police Summary of Facts in full. The total value of what was stolen, as stated in this by the police, was \$2865.59. Suzanne asked Edwin if this was the first time he'd offended. Edwin replied that it was not. There were two other occasions when he had taken money. He explained these happened after the police had collected their evidence. 'Any apology would be hollow without including those. I admit all cited plus these. Therefore, before reparation is assessed, these two should be included. Is this my opportunity to apologise?' he asked Suzanne.

After she replied in the affirmative, Edwin proceeded, leaning forward in his chair. 'First of all, I'd like to apologise to the people here, including two people for trying to defend me. Sorry, David. I brought you in under false pretences. Second to Richard – for any derogatory comments I made. It's hurt me that I went out of my way to hurt people. Three, to Michael – we had a personal relationship, and I've lost your faith in me. I apologise for the derogatory remarks I made to you and behind your back. It was a defensive mode. All my life, when I've done things wrong, I've denied them – gone defensive. I know what I've done wrong to 'VIP People Carriers' and the public of Invercargill. I am ashamed – every time I see a taxi, it's like seeing some of my family. I see people I know. Sometimes we talk. They don't judge me 'cos they think VIP was wrong. I didn't steal for monetary gain. I know the difference between right and wrong. I'm really sorry for what I've done.'

Edwin went on: 'I've never done this – faced my victims before. It's put me in a position of losing some of my best friends, the best job. I still find it hard to face myself. I thank you all for listening to that, and hope that you can understand where I'm coming from. I am really, really sorry. I hope I have made a turning point in my life and can go forward. That's all I've got to say'. Edwin then sat back in his chair.

Suzanne thanked him and asked David if he wanted to speak. David responded: 'I appreciate what you said. We looked at your situation from day one. It was undefendable, but a new situation for me. You were adamant you were the victim. I don't hold any malice against you. We all make mistakes. As long as we learn from them. That's it'. Suzanne asked David if he accepted Edwin's apology. He said that he did.

Michael then spoke: 'We were aware of those two offences. The part that concerns me is that, after we started the investigation, you carried on. That, more than anything else, got right up my nose! When a person is caught fair and square...I don't know if it is a death wish?' 'There's an explanation', interjected Edwin. 'I

have kleptomania. I was a mental hospital patient for being a compulsive petty thief. I would shoplift; I would steal anything lying around. Once I thought it was cured. I stopped. I had never been in a situation where cash was readily available. I don't know why, what sparked it off. I just took the money and tried to get rid of the evidence. I knew – I have yet to confront my stealing. I realise that, around cash, there needs to be a steel door between us. Cash is a 'no-no' with me.'

Michael replied: 'It wasn't just cash; you were stealing vouchers as well'. Edwin continued: 'I knew I'd get caught. A part says, "yes you can." In future, I must not put myself in that position'. Michael advised him of one of the consequences of his offending: the impact on other drivers. 'All employees have to sign authority for their police record to be viewed. Two people have been penalised since; two ladies defended you and have been subject to discipline, so your legacy...'

Suzanne then invited Andrew to speak. 'At the time, I was the Human Resources Manager and I saw the utter waste of time you've caused people. People here today; all at a cost. People have flown from Wellington. People had other issues in their lives. You've let down the union reps. David says he has learnt something. I struggle to see what he's learnt. He's been hoodwinked. As for wiping criminal records after ten years, this is a perfect example of why that is not possible. The situation for your workmates – people still think we're wrong, when you're wrong. Your thieving comes out of the profits.'

Richard was then given an opportunity to speak. 'You've opened up a big can of worms with the other two occasions – there's a hell of a lot more in there. You were mucking around for quite some time, over one month. We weren't happy with that. The cost keeps mounting up.' Michael added: 'It wasn't as if it was "there's a thief, lets hang him"; instead, we tried to prove it was the system'.

Richard continued: 'You proved my faith in people was wrong. The system has a lot of trails there. Just think how you let me down. I was a bit disappointed you haven't learnt over the years. I just thought you had a bit more brains; you had settled in. That's how it appeared to me. I didn't know you had a problem with kleptomania, that it's like alcoholism, a disease. I can see you put yourself in the wrong position. It's the admitting part that's the worst bit'.

Edwin responded: 'Yes, I look at my career at VIP. I now know it was a struggle, every day. It's denial'. Richard replied: 'I would like to believe that was the case...I'd like to believe that you were turning a corner'. Edwin observed how hard it was for him to hear everyone's emotions. 'Everyone's word is like a lash.' Richard noted that Edwin needed someone else at the conference. 'I've got a family; they know', Edwin told them. Richard continued: 'I'd like to think you are fair dinkum. I know the temptation's there. I could accept your apology. Then you could be laughing at me six months on'.

Edwin defended himself. 'I succeeded for 7 years. I enjoyed my job; I enjoyed meeting people.' Richard observed that Edwin was interesting to talk to. 'Just one big banger – cash! You've taught me a lot. I didn't want to go through this exercise. It's helped us improve our system. I just hope this isn't a way out of something worse'. Edwin remarked: 'I think this is the worst part of my sentence'. He and Richard then engaged in a brief discussion on the benefits of the hardship of the meeting. Richard then stated: 'If you're fair dinkum, then I accept your apology'. 'Oh, I'm fair dinkum, alright', assured Edwin.

Suzanne noted: ' "Are you fair dinkum?" has been strongly expressed. Would you be able to explain further? You told me at the pre-conference meeting that you were a petty thief. What brought about these changes?'. Edwin tried to explain. 'By putting myself here today – this was really hard for me. Prison is not as hard. I've been used to jail. I started to read about restorative justice. I could not imagine having five

people, at least two, despising me. That's why I'm apologising to everyone at VIP. I am embarrassed every time I see a VIP taxi. It hurts me inside. I am really sad for the people I have done it to and what it's done to me. It does affect me deeply. I know when the disciplinary hearing was on I was very abrupt. That was me then. This is me now. I have made a lot of decisions with long effects.' He paused, reflecting on his situation. 'It's taught me...I'm embarrassed... I feel a real scumbag.' Edwin appeared close to tears.

Marcel spoke, defending Edwin. 'I'm not a medical person. Your question', he said looking at Suzanne, 'disturbs me. You're asking him if he's better?'. Suzanne replied: 'That was not my intention. Edwin has said much about what he regrets, that people say he is a barefaced liar'. 'That would be true', commented Richard. Suzanne went on: 'Edwin wants to restore the situation. He's said he's done all this...'. Marcel interrupted: 'True, but if experts...' 'I was just concerned about the message about "fair dinkum". I was trying to prevent the conference becoming a mockery', Suzanne explained. Marcel persisted: 'Anyway, he can say it. I believe and agree with a lot of what Richard and the others have said. He's got to take what's coming to him. I think we've heard as much as we're ever going to.'

Suzanne asked Marcel what his feeling was about the conference to date. Marcel advised her he was not there to express it, 'because they've done it. He's done what he's done'. Edwin supported Suzanne. 'Hearing these things is what I need. Medical people have tried and failed. One way I can get better is to hear and face it. And it should have happened long before this. I need this. I have to get out of the mire I've put myself in!'

David asked Edwin if there were any other incidents. Edwin told him that the easiest way was to search the records for his pin number. David commented: 'It's good to think you are remorseful. It was extremely interesting tracking your transgressions'.

Edwin had more he wanted to discuss. 'Michael and Richard said about the investigation, the way I went on with my crimes. Good advice would have been to get out while I had the opportunity. Stealing money was not a way of insulting you. It was a problem, and this is part of the healing of that problem.' Richard asked: 'About kleptomania, we knew that you knew that we were looking at you. What we couldn't figure out was why you just continued. Even after the first hearing, we knew which days you did this'.

Edwin gave more information. 'I remember each piece of paper, each journey, each taxi. I knew right from training days.' 'There were so many tie-ups in the system', acknowledged Richard. Edwin continued: 'Everyone else knew. Marcel looked at me and said, "You did it." I just sat there and said "No" '. Richard observed: 'It's like alcoholism; there's denial. Is he fair dinkum or not? I sincerely hope this is the end of it. There is only one person who can do it and that's you. I just sincerely hope so'.

The conference then broke for ten minutes for coffee, exactly half an hour after it had started. The participants reconvened and Suzanne noted that they were somewhat pressed for time as Andrew had to leave 'soon'. Michael spoke. 'I want to preface this with a couple of remarks. First, the application you filled in about convictions. You said, "No". Saying "yes" doesn't preclude you from jobs. About your statements about kleptomania, you're saying that a restorative justice conference is better than doctors. As a manager, I have to play judge and jury. Here, we need an element of deterrence for other employees. I have a letter to put into the process. We'd like to submit it with the report.' He then expressed concern about a dilemma he was faced with about the restorative justice process, separating it from a vigilante one. He wanted due process of law to work. It was for the judge to decide. The company sought reparation totalling almost \$5000.

The discussion then focussed on the appropriate figure to cite for reparation. After this, Suzanne suggested they consider any intangible consequences. Some suggestions arose, namely: monitoring, psychological help, and a buddy system. Richard spoke to Edwin. 'You need someone you can talk to, who you respect. It could be anybody; someone who is professional.' Suzanne suggested that they consider a timeframe for this. Gillian noted that Edwin could visit a men's counselling centre and have a start date in writing to present to the court. She pointed out that it would be up to the judge to decide whether or not Edwin should follow that course.

Suzanne noted that an apology had been given and enquired whether or not it was accepted. There was no response. She asked Edwin if something had happened to him at the conference. He replied: 'I was speaking to Richard outside at the break. What I've got out of it is that there are people who still trust and defend me. I understand I am not alone; even people I have wronged still believe in me. These are building stones. I would like to meet Richard again in six months time and shout him a beer. It's hard for people to accept that I am sorry. Only good can come of it'. Edwin went on to say that his offending was blatant, only by 'lies and the defensive mode'. He said again that he remembered every detail. 'While defending myself, I was calling out for help. My replies became too deep. People around me were saying, "go to the employment court." I helped to bury myself.'

Marcel endorsed Edwin's first comment. 'He's been given the light of hope. We as a union, and Michael and Andrew as management, have met. I have to take my hat off to them; their words are hard, but true. But have a spot of care. It makes me proud to be a part of an organisation where such things can happen. Edwin misses the comradeship. Michael is a rangatira. I want to thank you for getting us all here. Edwin has said it's a good organisation to work for. Try and care for each other. The management have tried to show care.' David, his fellow union representative, agreed.

The conference then concluded with handshakes between Edwin and his workmates.

After the conference...

Edwin was of the impression that the main objective of restorative justice conferences was to enable 'people to understand what criminals never hear; what the victims say. In the criminal justice system people just hear the facts'. At the beginning he said he felt like he wanted to leave, especially when the union delegates came. 'I got a shock when they turned up. It's different with management, but with your own friends and family...' He acknowledged that both sides knew the facts. 'There was only one person trying to deny it.'

Edwin said he felt involved with the process. 'The impact of what took place at the conference really hit home when Michael and Richard said they tried to prove I was right. They must have still been thinking of me then. It makes me feel worse for them, but glad that they told me today. All the help in the world was there; all I had to do was ask.' Edwin said he understood most of what was happening, except at times what Marcel said was a little unclear. Edwin said he 'definitely' had a chance to say what he wanted to say. 'I knew I had that; I just wanted to do it in a nice way.' If anyone spoke too much at the conference, Edwin felt it was himself. He considered he was treated fairly and with respect.

When asked if he felt able to make up for what he'd done, Edwin commented: 'Richard wants to meet me in six months. He's the next barrier to proving I can do it. They all have great faith in me'. He regarded his apology as accepted, 'even though it was noted. When I look underneath, they all accepted it'. He felt 100% ashamed of what he had done, but he did not consider he had been treated as though he was a really bad person at the conference. 'Even though I had done wrong, I didn't feel as though I was bad. They were of two

minds – yes he stole, but why? They wanted me to point out why.’ He was surprised that Richard had spoken up for him. ‘He tried to show his own management that the problem wasn’t me; it was within me. He made me feel very proud.’ Having Marcel there, as a support person, was useful, ‘because he made people fidgety and want to get out of there. He was just being the big brother’. Edwin explained that he and Marcel were third cousins. He said he was pleased with the plan, which gave him a timeframe to make amends. The judge might not have given him such a harsh timeframe, since he would seek assistance from his family.

The good part of the conference was having dialogue between VIP and himself. The bad feature was Andrew, whom he felt influenced Michael to be less understanding than he would have been otherwise. Edwin was of the opinion that restorative justice conferences should be offered to all offenders and had already recommended the process to others. He declared that his actions would show that attending the conference would prevent him from offending again.

At the end of it he was pleased he had achieved what he wanted to achieve. ‘I wanted them to understand why I’m not bad; I’m a bit mad. I wasn’t going to personally attack them – it’s just a problem.’ He was glad he did meet them so he could hear what they had to say. However, he felt ‘it was wrong how they [the two managers] started off – by glaring at me, being judgemental’.

Andrew said he really had no idea what the objectives of the conference were. He felt ‘pretty much at ease’ at the beginning and it did not worry him seeing Edwin, whom he found interesting. At the end of the conference, however, he felt it had been ‘pretty much a waste of time’. He thought Edwin was being deceitful (from his body language). Andrew said he felt involved, although he had had nothing to do with the incident.

When asked if anyone said too much, he commented that he ‘got a bit annoyed at Suzanne repeating ‘fair dinkum’ too often’. He considered Edwin had been made partially accountable for his offending, adding that he thought they would never really know how much was stolen. Although Edwin apologised, Andrew did not believe it was with any conviction. However, he was of the opinion that Edwin had gained an understanding that ‘some people were very annoyed’. The bad feature of the conference for Andrew was ‘just what a waste of time it was for me. People try to get off things – we’re getting too warm and fuzzy about these things. I’m a bit old school’. However, he found the experience gave him a feel for what they were about.

Michael’s main concern was that it would prejudice the judge’s decision at sentencing. He really did not know what the objective of the conference was. He felt ‘normal’ at the beginning and said he had looked forward to it, particularly to see how Edwin reacted. ‘I wasn’t disappointed. He did exactly what I expected him to do.’

At the end of the conference, Michael said he was annoyed with himself for not saying enough. ‘I held back. I would have liked an adjournment to consult with advisers. I’d grave concerns with someone saying they were in an institution for eighteen months with kleptomania. I understand he had escaped. It doesn’t seem believable. I got the clear impression we had to deal with the issue straight away.’ Michael described his involvement as being somewhat like being an actor. Although he spoke out, he did not use the process as it was intended. Instead, he used it ‘for my own purposes’. He said all except Edwin, who ‘insulted my intelligence’, treated him with respect. He felt that Edwin was not able to make up for what he did; nor was he made accountable for his offending.

Michael continued: ‘He made a pretty statement of an apology. I don’t think he did it in a meaningful way. His entire performance was directed at a reduction in sentence. Instead of accepting the offender’s apology, Michael said he noted it. He thought it unlikely that Edwin understood how he felt because he did not understand how he felt himself. Instead of acquiring a better understanding of why Edwin committed the

offence, Michael was just convinced he was a 'bloody thief – incorrigible'. The agreement reached was one achieved through the guidance of the facilitator. He added that they would have liked more time to consider other options and ideas and to sort out which were acceptable. Even so, he was satisfied with the plan.

Michael saw the good feature of the plan as the chance to get some of the company's money back. A bad feature went back to his earlier concern about prejudicing the judge's decision. 'I don't want the judge thinking that everything was forgiven, that everyone had forgiven him. His sentence should reflect the same as it would without the conference.' Michael said he felt worse after the conference as three hours of work accumulated in his absence. The good features were the gingernuts with coffee. 'It was just something that happened. I was told to go so I did it.'

Michael was unhappy with the fact that he was given no advice about where toilets and exits were, and who the 'first aider' was. He would have appreciated these 'housekeeping' tasks being carried out. Nevertheless, he was satisfied with the conference overall, and he was pleased he had had the opportunity to have a new experience. He found Suzanne's accent required him to concentrate quite hard on what she said, at times. He thought restorative justice conferences could be good in some cases, but that, in others, it would be a waste of time. He said he would recommend the process to others. He would attend as a victim again depending on the circumstances.

David felt the objectives of conferences were to try to get some remorse from offenders, and to help the judge make his/her decision at sentencing. He had an open mind at the beginning of the conference and had no problem meeting Edwin again, after meeting him on a few occasions since he had left work. He found the process interesting, but was left with a suspicion that the process was a means to a 'soft way out' for Edwin who could also gain some kudos from it.

During the conference, David said he felt involved and understood all that was going on. When asked if Edwin was able to make up for what he had done, he remarked: 'He can't make up for what he's done at a conference. You couldn't trust him with money because of him being a compulsive liar'. He also thought Edwin had not been made accountable for his offending. David, however, did accept his apology. 'He didn't harm me or hoodwink me in any way.' He said he was not sure whether Edwin was really sorry, 'He said all that, but words can mean nothing'. His understanding of why Edwin committed the offence was limited to the offender's 'sheer stupidity and being totally naïve'.

On the subject of agreement to the plan, David explained his role as a union representative. 'Once he admitted guilt to us union delegates, it's out of our hands. It's to Michael's and the company's advantage for the union to understand the whole process and the restorative justice conference. As a result of this experience, it helps me to tell staff not to do x and y because of a and b. It was a very time-consuming operation, about forty hours.' He thought the agreed plan was 'quite good' and found the best part of the conference was 'getting the guy to admit liability and to be remorseful'. He qualified this, however, by stating: 'You can't take it too seriously because he could be an Oscar winner. A different person, complete U-turn, a Jekyll and Hyde'. David said he learnt from the exercise and was quite happy with the meeting overall. He was 'quite interested' in the concept, seeing it as 'quite a progressive step'. He would recommend the process to others 'if they needed it', and he said he would attend another.

Richard thought that the conference was 'trying to get a feeling of how we felt about what had happened, to tell the judge how victims felt about the situation, to enable the judge to take it into consideration'. He felt 'alright' at the beginning and that he felt 'sort of nothing, no malice against' Edwin when he met him in that context. He 'had no problems' with the whole conference and noted that he had spent some time outside with Edwin at

the break 'probably trying to get a feel of where he was at'. However, the following day he had 'different thoughts'. He wanted to know more about him since the conference.

At the conference, Richard felt he had had an opportunity to talk and to say what he wanted to. He did not consider anyone spoke too much, but observed that if it had been longer 'we would have been going around in circles'. He did not think Edwin had been able to make up for what he'd done, and he 'did and didn't' accept his apology. 'It was noted' he commented, 'in time, I may do'. He stated: 'It's a bit hard because it's part of our job to do these things. The problem was it took going over it over and over again for six weeks. Pee'd me off going around in circles. And his lies brassed me off'. In hindsight, Richard was not sure whether or not to believe Edwin's statement about his kleptomania. 'He's either telling the truth or playing a game.' Richard wanted proof before believing it fully. Although other people from the depot were there as support people, Richard did not feel he needed anyone to back him up.

Richard was quite satisfied with the plan, which he felt was decided really by Andrew and Michael. Attending the conference had provided him with a new experience and, in some cases, he felt it could help a lot. He now had an understanding of the process. He thought restorative justice conferences were a good idea especially as a means of getting answers to such questions as 'Why?' He would probably recommend it to others and said that, if he were a victim again, he would attend another one.

Marcel described his relationship to Edwin as a work colleague, as the depot's union delegate, and as a support person in the conference. He felt positive about the process, not only because it presented him with a learning opportunity, but also because he was able to see how management reacted to Edwin. 'If it's going to be a future thing, it's good that we were all there. More helpful for victims and offenders of the future. The whole exercise is to sort it all out and try to come to a true and proper end as soon as possible, efficiently, instead of it being dragged through the courts.' He considered this conference had been 'run good' and he could see it being very beneficial to offenders. 'Offenders are normally very troubled people. People like this need help rather than being pushed down. If they weren't troubled people, then they wouldn't be in trouble. They wouldn't need help.'

Of Edwin, he commented: 'My life skills impression tells me that Edwin won't get worse and he won't get better unless he goes through a monitoring programme of some sort'. He made the point that free access to money and him don't mix. 'I find it hard to see where this fits into this case. Kleptomania is a compulsive thing, so you take something all the time... This was just money, cash – either quick hands or brilliant mind. It required planning to do it.'

Marcel felt the process was a good one for management to get a 'better understanding of workers... They forget the necessities of life as a human. You see, when the Labour government came in, they asked us to have a working relationship with management. But management need a relationship with workers. If the union wasn't there, management would have shot him to pieces, and, if that happened, it would be no use being there'. When asked why management invited them, he replied: 'Out of respect for us, as stated by Michael; it means a lot of things, including showing the government they're working with the unions'.

Suzanne considered that the conference had been successful in the terms they had set down, although she said that she could not guarantee they would have the court's support for their request of reparation. She also considered it had been successful in light of the corporate 'no touchy feely' attitude and the very 'masculine environment'. 'By having the conference, we broke down those barriers.' Mindful of the management's reservations and comments about Edwin's propensity to lie, she latched on to Edwin's word 'fair dinkum' in order to press the point to Edwin that it was necessary for the others to be able to believe him. At the end of

the conference, she felt Edwin was 'for real'. Suzanne considered that this conference had illustrated to the corporate environment that the restorative justice process was relevant.

Gillian recalled the frequent discussions she had had with Suzanne pre-conference, and their concern that Edwin was not genuine. She said she still did not know how she felt about him. She noted how Edwin presented as very plausible, and how he was probably the most difficult they had had to assess to date. She asserted that this was because both his 'loquaciousness and... intelligence made him hard to read'. She also had concerns about Edwin being there by himself, without family support. This raised questions about whether or not he was grandstanding.

Gillian considered the conference had been successful, as everyone had had the opportunity to express themselves, including some who had said quite justifiably harsh things. The letters attached to the conference report from Andrew and Michael were interesting and unforgiving. She was aware that Michael was uncomfortable, 'like he was persecuting his friend, he didn't want leniency'. In addition to the usefulness of 'fronting up to the conference, was the fact that Edwin "jessed up" to other offending'.

After the sentencing date...

Edwin did not appear for sentencing and a warrant was issued for his arrest.

Andrew was not at all surprised that Edwin had not appeared at his sentencing hearing. He felt restorative justice conferences were 'pretty much a waste of time' and would not attend another if he were a victim again. He had seen people steal 'many times' before, and he considered this was just part of their lifestyle. It was something that could not be changed. Michael also said he was not surprised 'in the least' to learn of Edwin's absence at his sentencing. 'When we walked out of that room, I put \$10 on "we've wasted our time".' The whole experience left him feeling more negative about the criminal justice system. 'I'm a bit disappointed with them, because as a victim you get all involved in the thing, and then you just get totally ignored. I tried to get information about the sentencing date and was told by the restorative justice coordinator it was none of my business. As far as the reparation payment was concerned, there were no specific arrangements made about how he would give the money to us. However, it is possible there is a cheque waiting for us at the court. Yeah, you're the victim and you're used to help the offender by attending the conference. Then you're just ignored.' Michael said he would talk to others about the possibility of attending a restorative justice conference, but I would say to others: 'If the guy is genuine, then look at it. In this case, the guy was a ratbag'. Like attending again as a victim, it would depend entirely on his knowledge of the offender and the offence. 'Anyone fiddling with little kids is totally beyond redemption!' he declared.

David thought the criminal justice system 'badn't achieved much at this stage'. He expressed positive views about restorative justice. 'I think they're a good thing. Puts the emphasis on it; it's not an easy thing for them to do. But it makes you wonder if it's cost-effective.' He would recommend the process depending on the situation. 'In cases of physical impact, it would be especially good for the psychological recovery of the victim.' He said he would still attend another should the need arise.

Richard was disappointed to learn of Edwin's non-appearance. 'I don't think he's changed. He said he would and he hasn't. It's just the stupidity of it! It didn't surprise me really.' Notwithstanding this, Richard said he felt more positive about the criminal justice system, because 'it seems there is something being done. The idea is good'. He was still positive about restorative justice conferences in general, and would recommend them to others: 'providing the person is actually interested in changing, it's good. But if you attended too many, you'd

conclude it's just an outlet to escape something else. I'd asked Edwin to prove to me he could swing it around and he hasn't.'

Marcel sounded disappointed when he was told of Edwin's non-appearance at court. He commented: 'From what happened, he should have fronted up. It's a let-down for all the parties who tried to help him. Everyone made accommodations to help him. It was a good exercise. He will help people to think it was too easy an exercise'. He wondered whether or not Edwin had heard there was a jail sentence waiting for him.

Suzanne was advised by the researcher that Edwin had failed to appear. Her reaction was marked. First, she described vividly her experience when she first met Edwin. 'This is a guy who physically looked quite menacing – rough and scruffy look – and, when I met him at his temporary workplace, I felt as though I was in the robbers' den. I felt really unsafe. But when he talked, he was very smooth, and expressed remorse, more in words than in sincerity. But...he pleaded a case for himself to be given an opportunity to apologise.' Suzanne's overall reaction to the news was poignant. 'I feel very victimised by this whole thing. At the pre-conference stage, he was always available, but after the conference he could not be contacted. I felt very conned by him. In a way, I batted for him at meetings with VIP, to encourage them to attend. "Why don't you give him a chance?" I said. For me, I feel let down again. I want to believe in the good in a person, and I feel duped again. It raises questions about my ability to assess the suitability of a person for a restorative justice conference.'

Gillian's reaction was: 'Why am I not surprised? I guess I did have some doubts...he seemed so remorseful but didn't take anyone to the conference, which means he didn't have to be responsible to anyone in his family. In hindsight, he was so eager to confess over and above what he was charged for, and he apologised so profusely. His hoodwinking ran you down. He was too glib. I had reservations straight after the conference. I hoped they were wrong. I thought he was going to pay them direct...I'm basing my impression on his extensive history of offending and careful planning. This wasn't a casual incident...I feel really angry because all of those people came along in good faith, and a number of them trusted his remorse. He said he wanted the chance, and that he was truly remorseful. He talked a lot about his mental health problems and how this was going to be a new beginning for him. He's really let down all those people who took time to be there. I don't feel sorry for him, mental problems or not. He's sharp enough to have done this. I feel really sorry for the people who put in the time and effort'.

Twelve months later...

Edwin was sentenced to 325 hours community work just over two months after the initial sentencing date. No sentencing notes are available.

Edwin was contacted after 12 months but terminated the interview only a short time into it. However, he did say that the conference had affected him greatly and he wished that he had had one earlier in his life: 'my life would have been totally different'.

Andrew felt that the conference was a 'total waste of everyone's time and money'. He said that he was very dissatisfied with it overall and with the plan. He saw conferences as more for the benefit of offenders than victims: 'It was designed for them to try and get away scot-free'. He also regretted taking part as Edwin had not turned up for sentence. He wished that Edwin had been imprisoned. Indeed, he felt more negatively now about Edwin than previously because he did not do what he was supposed to do and Andrew doubted that his apology was sincere. He thought about the offence occasionally but that it was now all behind him, due to the

passage of time. As a result of participating Andrew said that he now felt more negatively about the criminal justice system. Conferences were a waste of time. He said he would neither recommend nor attend another one.

David stated that Edwin had told them 'a lot of lies'. However, he felt that conferences were good for someone who wanted to change. He was pretty dissatisfied with it overall and said that the agreed reparation had not been paid as Edwin had 'up-camped and moved somewhere else'. He felt that this was necessary to enable closure to occur. David also felt more negatively now about Edwin than previously because he did not do what he was supposed to do. He thought Edwin to be a bad person. He suggested that it would be better for victims if they were told how the offender was getting on.

Richard was impressed with the openness of the conference but still did not know the outcome: 'we just hear rumours'. He was pretty dissatisfied with it overall and very dissatisfied now with the agreement. He again stressed that he had not heard a thing about what eventually happened. Richard too felt more negatively now about Edwin than previously because he did not do what he was supposed to do. He saw Edwin as a bad person.

Michael could not be traced at the time of the follow up interviews. When Marcel was informed about the sentence, he thought that it was fair since Edwin was not in a position to pay a heavy fine and sending him to prison for this type of offence would not have been constructive. He believed that Edwin could do more work in the community.

Case Study M

This case study concerns a Samoan woman in her early thirties called Maria who faced 41 charges of taking or dealing with a document with intent to commit fraud. Maria is a mother of two children and in a stable relationship. There were thirteen victims of Maria's offences and the offending took place over a period of five months. Most victims were employed at kindergartens. Maria met with the victims and told them that she was interested in enrolling her children at the kindergarten. During brief absences from the room contrived by Maria, she removed credit cards and the like from the victims' purses. Maria had a long history of offending and had never previously been confronted with the effects of this. Although sentenced to eighteen months imprisonment, she stated that the conference was a turning point for her. Two victims – Lorraine and Josie – attended the conference, as did Lorraine's husband. They had different reactions both towards Maria and to attending a restorative justice conference in prison. Maria's husband had agreed to attend the conference, but did not turn up. Marg, a prison social worker, supported her for part of the time during the conference. Timothy facilitated the conference and Lisa was the co-facilitator.

At the conference...

Because Maria had been remanded in custody, the conference was held in prison. Timothy said he was concerned about this venue and described the room as small, dark and narrow, where people coming and going compromised privacy. 'It was not a secure environment for the offender letting go'. In fact, although the booking had been made for a certain time, Timothy was later informed that the conference had to be over within an hour to allow another event to take place. This meant there was no time for a break. Nor was there space or another room for meeting in smaller groups, if the need arose.

It began with the participants introducing themselves. Timothy said a short prayer. Next, Timothy explained the purposes and processes involved in a restorative justice conference and the ground rules. Lisa read an abridged Summary of Facts and Maria immediately apologised and expressed her remorse, saying: 'I know what I did was wrong. I will accept my punishment. This experience has opened my eyes; I don't want to come here [prison] again. I am really sorry for what I did'.

Lorraine then read a letter she had written to ensure that she did not forget anything she wanted to say to Maria. In it, she thanked Maria for coming to the conference so that she and the other victim could meet her. She stressed how premeditated Maria's actions had been and how she now found it was 'harder to trust people'. Lorraine's husband emphasised these points and suggested that Maria now had the chance to make real changes in her life.

Josie spoke of her familiarity with Pacific culture, of disadvantages in society, and of her anger towards Maria. She said she did not feel sorry for Maria as she 'hadn't cared for her victims. They could have died as a consequence of her thoughtless actions'.

Maria appeared shocked by what she heard and seemed to begin to understand the impact that her offences had had on her victims. She was visibly moved. She then explained further her circumstances, training as a Kobanga Reo teacher, and disappointments. She described herself as a 'mean, angry bitch'. She said that she had not always been like that: 'this last year has been very hard for me'. Maria sobbed intermittently throughout the rest of the conference. Loraine and Josie continued to encourage Maria to make choices that would not result in her offending again. They accepted Maria's apology and said that they did not expect to receive reparation from Maria though Josie said that she would like her out of pocket expenses if Maria ever offended again. Maria thanked everyone for coming to the conference as she left.

After the conference...

At the beginning of the conference, Maria said that she felt nervous and a 'bit ashamed'. She didn't even want to look the victims in the eye. 'It was really hard...I felt really uncomfortable in the beginning.' However, she felt 'very much' involved in the process and understood all that was going on. With respect to explaining why she offended, Maria said: 'I chose not to talk about this, but, when they asked me, I told them'. She said everything she wanted to. When asked if she felt she was treated with respect, Maria made an interesting comment. 'Obviously I wasn't expecting it from the people I hurt, but they were very nice. They weren't mean to me. It was totally different from the yelling I expected. It was comfortable and easier and did not make me feel judged again.' She felt she had been treated fairly and noted that every time she spoke she was not interrupted. 'I was given time to think about my answers and I was not rushed.'

When Maria apologised, it was not how she had planned it. She went into greater detail. 'I intended to just say sorry with no feeling. But after hearing them I sensed they were real people. It was different. I said what I felt.' She felt very ashamed of what she had done. Although Maria was without a support person, she regarded the facilitators as speaking on her behalf. When asked if she would have liked more support at the conference, she said 'I would have preferred it on my own. It would have been hard for Mum to be there. And harder for me to be as I was, with a support person there'.

Maria thought the objective of the conference was to let the victims 'say their piece and explain how they felt at the time of and after the offence happened, and for me to apologise to them'. She then stated: 'I feel I've turned a corner since the conference. Totally. Not only because of the facilitators but also because the victims told me I was a nice person. It clicked that I can be a nice person if I choose to...I had a different thinking about my offending...I thought about it more seriously than when I went in'. The best part of the conference for Maria was that it was over. She described the worst part as the beginning: 'sitting down and seeing them for the first time since it happened'. Notwithstanding this, she was quite satisfied with the conference overall. 'It wasn't what I expected – it was more than I expected. When I went in I wasn't expecting to get much out of it.' Maria described her feelings at the end. 'I actually felt good. At the conference I had heard and understood where they were coming from with their anger...They opened out a lot to me and I did too.' 'It was easier for me to look them in the eye and say sorry and mean it.' Maria thought conferences were 'pretty good' and she would, and had, recommended it to everyone. When asked if participation in the restorative justice conference would stop her offending again in the future, her response was positive.

Lorraine's impression was that the conference was setting out to give both victims and offenders a chance to speak and to listen to one another, and to give victims a sense of empowerment through being no longer invisible. She also considered it would make the offender's life more positive. At the beginning of the conference, she said she felt supported, having her husband and another victim present. 'I felt really comfortable with the facilitators, but felt really intimidated by the prison. To hand over my handbag was threatening for

me, especially after the offence. She was also 'a bit nervous' of meeting Maria again. 'She looks quite an angry sort of person. I wasn't worried about physical harm, but I wondered what she was thinking.' Lorraine felt involved with the process, understood all that was happening and had a chance to explain how the offence affected her. Lorraine commented: 'She didn't have any support. Her husband was meant to come but didn't arrive. It might have been easier for her if he had been there'. She noted how Maria admitted she had done wrong and that she was accountable. At the end of the conference Lorraine said she felt sad – particularly for Maria – and relieved. 'Maria cried and appeared genuinely moved. I felt sorry for her.'

Lorraine said: 'She can't undo what she did, she stole my trust in people'. Maria had shown her that she was really sorry, but because Lorraine was unsure what Maria was thinking and Maria made no eye contact at the time, it left doubts in Lorraine's mind as far as Maria's sincerity was concerned. Lorraine gained partial understanding about why Maria committed the offences. The reasons given (getting fired from a kindergarten, needing to support her children and having to wait for a benefit), however, did not really convince Lorraine that Maria had to make those choices. 'It didn't ring true, really.'

Lorraine regarded the best parts of the conference as reading her letter and listening to the other victim; the worst aspect was that Maria did not have a support person. All her needs were met except for the provision of a cup of tea. She felt very satisfied with the meeting overall and was pleased she had attended. As a New Zealand European, she did not consider she had any cultural needs, 'apart, perhaps, for the cup of tea'. She felt positive about the concept of restorative justice. 'I think they're worthwhile, for both the victim and the offender. It is good for victims to have a voice. For victims of more serious crimes I think it would be very beneficial.' Provided there were no costs in attending conferences, she would recommend them. She would attend another if she were a victim again.

Lorraine's husband said that he really went along as a support person. He didn't know beforehand he'd be expected to speak at length. He only said a few things, but felt they were taken into account.' He said: 'the key to the whole thing was seeing the true effect on the offender. There were some very moving things said by my wife and the other victim. We both think it was more important that the lady who stole saw the effect of her actions on the victims and changed as a result. No matter how little she stole, it was worthwhile. It was good to hear her background and why she did it. And we were able to see that she has a brighter future than she thought she had before the offending. She was smart enough to work in a Kohanga Reo. But she's burnt her bridges there, I think. My wife just wanted to tell her how she'd stolen her trust. The conference has helped my wife. She has changed; she has become more careful at the kindergarten'.

Josie was aware of feeling 'a little bit angry' at the beginning of the conference, which she then amended to 'very angry'. The main reason for this was the way Maria lowered her head. 'I said to her, "in my culture, you should be looking at me".' Josie felt better at the end, particularly because she could tell Maria everything she felt. 'I was a bit angry with the other victim's attitude; she wanted to help her. I wasn't ready to forgive her like the other victim.' Maria's crying also made Josie angry, as she thought this was an act. In addition, Josie did not like the way the prison officer cuddled Maria as she walked out of the conference. 'I felt that was wrong.' On the positive side, she considered she and Maria related to each other because Maria was being honest with the group. At that time, she wasn't crying, which Josie felt was 'good'. Josie said she felt very much involved, and felt that she 'ran it. I organised it'. She told the facilitators at one stage that they might need 'a couple of pads' to record all she had to say.

Josie was not convinced that the offender cared about what she did. 'I think she will reoffend.' Although Maria apologised, Josie did not accept her apology. She made her feelings very clear to Maria, but left the conference none the wiser as to the reasons for her offending. She did not gain the impression that an agreement had been reached. 'There was no mention of a plan', she advised.

Josie felt better having been able to express herself to Maria, and to let her know what she had done to her family. She was very satisfied with the conference. On cultural issues, she said: 'I think people from other cultures need to be aware of European culture'. Her last words on the conference were: 'I just hope by having the conference it doesn't give offenders lesser sentences. I hope it shows judges how the offence affected victims and offenders get sentenced accordingly. I don't want offenders to go just to get a lesser sentence'. In general terms, she was positive about restorative justice conferences and said she would attend another if she found herself a victim again.

Marg said she was a great believer in restorative justice and thought it was 'just fantastic'. She described the facilitators as 'very professional'. However, she did not think that Maria had had much preparation: 'she didn't seem to know much about going to a restorative justice meeting. She was quite caught off guard, actually. She just cruised along to it like it was some visit'. With respect to the time allowed for the conference, Marg emphasised that this was 'generally a major issue around here. The women's prison is very small, very pushed for time. It's very unsuitable, and it was probably a late booking. That's probably why Maria wasn't prepared for it'.

When asked about her evaluation of the success of the conference, Marg said 'you need to wait and see after the inmate has been released'. However, she went on: 'the victims obviously put stuff at her and she had no option but to listen. It was successful for the victims'. In response to a question about the impact of the conference on Maria, Marg said: 'I asked her a couple of days later how she was. She was quiet, a lot quieter than usual. There was a lot on her mind and there was no process for her to talk about what happened. So I don't think there was really an ending process for her after the group left together. She just went back to her wing. They [the victims] would have obviously talked among themselves. She didn't have that...The surrounding wasn't all that helpful for her to process stuff'.

Timothy was concerned that the venue had impacted on the conference. 'The prison officer assigned to accompany Maria came and went and the process was unable to follow its natural course. We didn't get a good process as usual – it was very truncated.' However, on a cultural side, he learned of a different facilitation style as Lisa, a Samoan, took the lead role. As a result, he found it was less structured than he was used to. 'It was a good experience and I enjoyed it', he declared. 'It achieved the usual benchmarks.' In the earlier part of the meeting, Maria appeared to be going through the motions. However, this 'earlier detachment changed to quite a marked degree, as she showed she was genuinely remorseful'. Timothy said he was delighted to see true remorse from Maria. 'She was looking at the victims and saying she would change. Of all the people to steal from, she chose those who were poorest in the environment.' He described the strength of the two victims, and their differences. Josie, in particular, he noted as saying she had had difficult times, and had been where Maria was now. She made it very clear that it was possible to change as she had done.

Lisa said everything went well in the conference. 'One victim had a real go at Maria and told her she had been in a similar position [to the offender] and look at her. Maria could do the same. She said: "Whatever money you took from me I want back. If you change your ways the money didn't have to come back!" It was a tough conference but very emotional... she really broke down and apologised.' Lisa also said that she had enjoyed working with Timothy, and thought working in the Samoan cultural way was good.

After the sentence...

The judge referred to the nature of Maria's offending and her history of offending. But he also acknowledged 'the helpful insights of the probation report and most notably the process of restorative justice conferencing'. Because this offending had occurred shortly after Maria's release from a previous prison sentence, the judge said that 'a term of more than two years...would be very likely and predictable'. However, he also noted that whilst on remand in prison, Maria had 'tried to do something about addressing rehabilitation...by integrating into the Straight Thinking programme', had agreed to meet with some of her victims and had pleaded guilty at an early opportunity. The judge explicitly referred to both section 7(1)(a) and section 8 of the Sentencing Act. The first relates to holding offenders accountable for harm and the second to taking into account the outcomes of restorative justice processes. As a result, the judge decided to give Maria what he described as 'considerable discount on the appropriate sentence of imprisonment', mainly for the reasons mentioned. However, he went on to describe as 'the most important' the fact that Maria had 'probably...for the first time looked into the eyes' of her victims and had gone through a process 'far more significant for teaching an offender to become accountable than most of the other things that we do'. The judge described 'confronting those people and being confronted by them' as 'pretty gut-wrenching' and might have made Maria realise how her offending 'affects real people whose lives carry on, suffering from the effects of your actions for a long time'. In recognition of this, the judge said that, instead of sentencing Maria to two and a half years imprisonment, he would sentence her to 18 months imprisonment and give her leave to apply for home detention.

Maria thought the sentence was more than fair. She also explained what she was doing to consolidate her 'turning point'. 'I get along with the officers and the inmates and am asked to talk about restorative justice with the other inmates who are considering going to conferences. I tell inmates it's good for them to hear what the victims experienced. Gives you a totally different attitude... There's no info or posters. I'm the main spokesperson on restorative justice in this prison.'

Lorraine considered the sentence imposed was quite fair, as did her husband. However, Lorraine added: 'I wouldn't have minded if she'd got longer, but I'm pleased she went to prison. If she'd got longer I would have said it was very fair. Lorraine did not support the idea of home detention for Maria. She felt more positive towards the criminal justice system as a result of her involvement with the restorative justice conference.

Josie knew about the sentencing outcome. Not having seen the conference report, however, she said she was unable to comment on whether the report influenced the sentencing outcome. For the same reason, she was also uncertain whether the sentence had taken care of her needs. She was pleased Maria was sentenced to a term of imprisonment and remained positive about restorative justice conferences.

Timothy felt very sad about Maria having to go to prison. 'She loved her 3 or 4 kids aged four, five and six or something, and the main thing she wanted to do was to be near them. She was worried about how well her partner would care for them. I'm just disappointed it is so far away. A prison in a locality where her children are would have been better. Being away from your family is bad enough, but being so far away is a shame.' He would have been happy with a sentence of home detention, even though he acknowledged what she had done was not a 'cool thing to do'.

Lisa considered the sentence was appropriate. 'She had spent some time inside – all the victims wanted that. I'm happy with that, happier if she spent some time inside and came out and did some work with the community.'

Marg said she had expected Maria to be given a prison sentence.

Twelve months later...

We were unable to trace Maria for a follow-up interview.

Lorraine said that what she remembered most about the conference was meeting Maria. She was still pretty satisfied with how the conference had gone overall and with the conference plan. She didn't really see the conference as being mainly designed for offenders. She said: 'I don't know if it helped her, but I know it benefited me'. Lorraine said she still thought about the offence occasionally and that it still had a pretty big impact on her. However, she also said she now felt that it was all behind her and that participation had helped with this. She still felt positive about the criminal justice system and thought restorative justice conferences were 'well worth it. Offenders need to face up to their victims'. She said she would still recommend them to others and would go to another one if she was a victim again.

Josie agreed that meeting Maria was what she remembered most. She too was still pretty satisfied with how the conference had gone overall. She did not agree that conferences were mainly designed for offenders and felt they helped victims too. She said that she still thought about the offence weekly and that it still had a pretty big impact on her. However, she now felt that it was all behind her. Participation in the conference had helped with this. She too said she would still recommend conferences to others and would go to another one if she were a victim again.

Case Study N

Alex was an unemployed man who broke into his mother's and her partner's home three times to take what he believed were his own belongings, but which the police stated belonged to his mother. Alex also claimed his mother owed him \$1000. He sold these various belongings to a local pawnshop. Most of them were taken during the last burglary, which was also Alex's mother's birthday. This case study demonstrates how Alex and his mother, Elinor, were able to begin the healing process, after the mother brought charges of burglary against her son, despite real misgivings by the facilitators that this was the appropriate forum for such a meeting to take place. When the facilitator (Dora) and co-facilitator (Bruce) met with Elinor, Elinor said that she was very apprehensive about the restorative justice conference process, but hoped Alex would realise that he needed to do something about his problems. When they met with him, he said he was angry that his mother had brought charges. However, he did want to sort things out with her so that he could get on with his life. While mother and son were both anxious about meeting each other at the conference, they were aware it was important to move on, or at least to reconcile their differences as family members. Alex was supported by his partner, Elaine, and Elinor was supported by her friend, Rachel. The attending police officer in charge of the case, Paul, was a cousin of Elinor and Alex. The conference enabled them to begin listening to one another, to build a healing bridge of understanding.

At the conference...

Every one arrived at the same time – 7.15pm – and there was a sign on the white board that said 'Welcome to your restorative justice conference'. There was a large table in the centre of the room. Elinor and Rachel sat on the side furthest from the door and Alex and Elaine sat on the other side near the door. Dora and Paul were at one end of the table and Bruce at the other end. The atmosphere was subdued. Alex and Elinor glanced at each other surreptitiously from time to time, but no eye contact was made. Dora opened the conference, stating the aim was to resolve and repair the relationship between Alex and Elinor by talking about what had happened and how to make it right. She acknowledged that this was the first time she had facilitated a conference with family on both sides of the table.

The ground rules were explained and the police officer, Paul, read out the police Summary of Facts. Dora then asked Elinor if she would like Alex to respond. Alex told his story, explaining that he burgled Elinor's house because he hates her de facto and his family. He said that he was sorry he 'ripped her off', but it felt good 'ripping them off'. He also said he felt 'stink' as well, because Elinor had asked him to leave the family home.

Elinor explained to Alex that she wanted him to leave home because she could not stand watching him abuse his body nor did she want her daughter, Tania, to be affected by Alex's actions. Alex denied causing a problem. At this point Rachel, Elinor's support person, chipped in acknowledging that Tania was frightened.

Elinor told Alex that he had not kept an appointment with Community Alcohol and Drugs (CADS), something he had agreed to do. Alex denied this. She then went on to say that he had broken the rules of the house. Alex agreed.

Elinor then said to Alex: 'You've got to learn respect. I can't trust you'. She recalled times when Alex did wrong, beginning to cry at this point. Alex denied doing wrong. Elinor then suggested that she had always protected Alex instead of making him deal with the consequences. She told Alex that the hardest thing she had ever done was to kick him out of the house. Even harder was contacting the police after the burglary. Alex responded with an 'mmm'.

Elinor then told Alex 'It felt like I was being raped'. Alex apologised. He said: 'I'm sorry for doing that, especially on your birthday as well'. Elinor asked her son why he took his Nana's perfume. To which he responded: 'coz it's nice and I'm not rich, am I?'.

Elinor had been crying intermittently throughout this interplay, and sitting very close to Rachel. Rachel quietly offered her support by putting her arm around Elinor, handing her the tissues or rubbing her arm. Alex's girlfriend, Elaine quietly held his hands throughout. Elinor tried a different approach, telling Alex: 'I love you, that's why I wanted to remind you, and then you come back and do it again. Why do you hate me so much?'.

Alex told Elinor that she had stressed him out over the years. He wanted her to 'chill out' and stop worrying about him. He then apologised again, saying he realised he had upset her. Dora reminded him there was stuff that came up at the pre-conference interview which he wanted to share. Alex began to speak, but then began to cry. He asked for a break. Alex and Elaine went outside and Paul and Bruce went with them. They were away for about eight minutes.

After the break, Dora invited Alex to get out some of his 'bottled up feelings', which he revealed to Paul during the break. Throughout this discussion, Dora's interventions helped keep Alex talking, releasing some of his anger.

Alex shared how 'fucked off' he was that Elinor had sent him back through the court system. Alex also talked about his dissatisfaction with life at home, about how he felt 'forced to do shit', things Elinor was interested in, about being nagged at, and about the difficult relationships he had had with his mother's three partners. Dora asked him to explain what happened between him and them. He explained how one of them beat him and another pushed him around.

Alex also talked about how he wanted to get away from Elinor by shifting towns. He felt much more relaxed now that he was away from home. He told his mother that he was seeing a counsellor through CADS. Elinor wanted to know how long this was for. Alex replied it was just to clear his head for a few sessions. He talked about how he had given up drinking so much and was not sniffing petrol anymore.

Alex talked about one male role model who treated him with respect. He didn't talk to him like he was a little kid. Elinor interrupted and said: 'he's not a parent'. Dora intervened here suggesting to Alex that 'he is the kind of parent you would have liked'. This quietened Alex down and Dora continued. 'You're a grown up man now and you're in charge of your life now. Can you think of one or two good things to help you move forward? Can you think of two or even just one good thing of your growing up?' Alex remembered going to Australia with his mum. At that time, she wasn't stressed. Dora asked him to think about what he could do to resolve things. Alex said that he felt stressed and pressured by the pending court hearing and the curfew

he had to meet. He believed that, compared to others for the same crime, he was under stricter rules. Paul told Alex this was his doing. It was because he was loved. Paul said he wanted to rein Alex in before things got too out of control and there was a bigger mess.

Dora summarised the discussion so far, and reminded Alex that he said sorry to his mother. She proceeded to read a letter from Stan, his mother's partner at the time of the crime, and whose house Alex had burgled. Stan was unable to come to the conference but he wanted Alex to hear what he had to say. Alex did not want to talk about him. He mumbled something about doing something nasty to one of Stan's sons. Elinor told Alex that she and Stan were no longer together, partly because of what he had done. Elinor began to cry. She talked about how difficult it was to bring up children on her own and how good it was to have the support of a partner. Rachel reflected that perhaps the partners did not know how to treat Alex because they didn't know him. Elinor then suggested that it would be nice if Alex could write Stan a letter of apology. She added: 'I know you hate him, but he let you live there'. Dora asked Alex if this was something he could do. Alex responded 'Yeh'. Dora then checked out how everyone was. Elinor wanted a smoke. Dora explained the process after the break, which involved coming to an agreement. A break was called.

After the break, Bruce summarised what had happened so far. Dora suggested they work in small groups so that everyone could talk about what they would like to happen next. Rachel told Alex she applauded his coming along letting Alex know she thought Elinor was a good mother: 'no worse and better than lots of mothers'. Alex and Elaine then went off with Bruce, and Elinor and Rachel stayed in the room with Dora and Paul.

The conference reconvened after fifteen minutes. Dora invited Bruce to begin with their list. Bruce read out Alex's list which included that Alex write letters of apology, make full reparation, attend CADS and do Periodic Detention (PD). Some discussion about the practicalities of points of agreement followed, especially about how it would be good if Alex could start counselling before he went back to court. Instead of PD, it was suggested that Alex do community work, perhaps in a kitchen or a swimming pool. He agreed.

Dora then proceeded with items on Elinor's list. It suggested community service for Alex and counselling for Alex's family and anger problems. Elinor extended an invitation for Alex and Elaine to visit her and his sister. Some discussion around counselling took place again. Alex just wanted to talk things over with Elaine, but Dora suggested that it was good to talk to another person. This would burden their relationship. Paul said that he supported counselling rather than anger management. Elinor shared some of her experience with a counsellor.

Each point of the agreement was checked and all was agreed to. The conference plan, therefore, was that Alex would write letters of apology to his mother, her partner at the time of the offence, Stan, and Alex's Nana. Alex also apologised to his mother at the conference and this was accepted. He agreed to pay reparation in the following amounts: \$100 to his mother (to cover her insurance excess), \$325 to a local pawn shop, and an amount yet to be clarified to Stan. Alex further agreed to carry out community service or a community programme, to contact CADS and have arrangements made by the court for ongoing attendance. He was to investigate counselling options. Elinor also invited Alex and Elaine home for a meal.

Dora then asked if there was anything more to be said. Elinor looked at Alex and said: 'I'd just like to say I love you and I wish you all the best'. Paul commented to Alex: 'It's easier to burn bridges than to build them. You've got many years ahead of you yet'. Rachel then told Alex: 'You make your own choices in life; make them good ones'. The meeting was declared closed at 9.40pm. Elinor approached Alex and offered him her address. He took it. The two groups – Alex and Elaine and Elinor and Rachel – left separately.

After the conference⁴

Alex was hardly recognisable at first. He had put on weight and looked happier. He was living in his mother's house while she was away. His girlfriend, Elaine, was heavily pregnant. Alex said that he had felt very nervous at the beginning of the conference. It had been his idea to have the conference and that he went along to try to reconcile with his mother, to own up to what he had done and to try and work things out with her. Initially, he said that it was hard for him to feel involved. He felt angry when the Summary of Facts was read out because he thought that everyone was against him. However, Alex also said he found it really good to be able to hear each side of the story, face his mother and talk with her. Initially, he had not understood what it had been like for her, but hearing her story helped Alex know that she had felt invaded. He also then began to feel remorse for what he had done. He did not feel ashamed of what he had done though, until he came off drugs and alcohol. This happened in the months since the conference. By the end of the conference, he felt relieved, as if a weight had been taken off his shoulders.

Alex said that he thought that a conference was a good idea if the offender wanted to restore things. Participating in this conference would stop him offending because he could now see what crime does to the victims. Alex said it was getting the counselling because of the conference agreement that had really helped him. He also felt better paying Elinor back the money she was out of pocket. He talked about how he wanted to be responsible, and said that he had found a job as a tyre fitter. He said he also wanted to support his partner and their baby when it came. Alex was also extremely happy that he and his mum were now reconciled and were having a positive relationship for the first time in ages. Before going to the conference, he thought it would be a waste of time. Afterwards he thought it was quite good.

Elaine did not speak at all during the conference, but held Alex's hand some of the time and went with him during breaks. She said she went along because she wanted to be there for him. She felt very nervous during the whole conference because she always felt nervous around people she did not know. She had only met Elinor once before. She did not mind taking a supportive role and not taking part in any discussion. At the interview, she admitted to feeling a bit ashamed of what Alex had done and told him she thought his offending was stupid. She was also relieved that the agreement asked for Alex not to go to jail. Even though she was satisfied with the agreement, she thought he got off pretty lightly. She was happy the conference gave Alex the opportunity to talk to his mum and apologise to her. She felt sure that Alex would no longer offend in the future because he had seen how stupid it was.

Elinor said that she wanted to go to the conference because she thought it could provide an opportunity to reconcile differences between her and Alex, and to find a satisfactory solution for everyone concerned. Elinor said she loved Alex and wanted to do anything that would make things better for him and between them. Initially, she said she was a bit nervous because she didn't know how Alex would be. She had not had any contact with him for the previous three months. To begin with, she said, things felt a bit icy. She did not know Elaine then. By the end of the conference, however, Elinor felt relieved and conciliatory. She thought that something constructive had been achieved even though Alex did not seem to show remorse at the time.

She was happy with the agreement because the outcomes benefited everyone. It made Alex accountable for what he had done and also assured her Alex would get some professional help in the form of counselling. Also, the money she was out of pocket was to be repaid. Elinor was extremely happy with the conference. She said it allowed everyone to express their feelings in a safe environment. It opened up a way for healing and for her and

4 These interviews were conducted a considerable period after the conference. Initially, Elinor was reluctant to be interviewed and was then extremely hard to get hold of. Alex and Elaine moved and could not be contacted until Elinor provided their details 6 months later.

Alex to repair their relationship. 'It was a big learning curve for all of us. If we hadn't had the conference, we'd still be estranged. It definitely healed the rift.' She felt that the conference had definitely nipped Alex's offending in the bud because he had to face up to her and to his offending. She thought that this was harder than having to just pay a fine and go to jail. 'It's not a soft option.' She believes restorative justice made offenders accountable for their actions to the right people. Offering them to teenagers who were new to the system would probably stop reoffending.

Rachel did not know anything about the restorative justice process. She was concerned about the need for clear guidelines so that the meeting environment was safe for Elinor and Alex. Rachel was also worried that Alex would be verbally abusive and get quite nasty, something which she had witnessed in the past. She was also concerned for her own safety because Alex had retaliated against his mother before. Alex knew her house well. She did not want to be the next victim if things got nasty. She knew Alex as an angry young man and did not rate the chances of the conference being successful very highly, given Alex's history and her belief that he was one step away from prison.

Once at the conference, Rachel was reassured by the excellent facilitation by Dora. She liked the way Dora set boundaries right from the start. This helped her to feel safe. It provided a non-threatening environment for everyone. She thought it was also good that Elinor's cousin was there, not only for Elinor, but to provide extra support for Alex. She thought Alex was lucky to have such good support from Dora and Bruce as well.

Rachel thought the agreement was really helpful, in that it set clear goals for Alex to work towards. She was surprised that Alex agreed with them. She was not sure who would supervise the outcomes, but felt that this would be important for the conference outcomes to be successful.

Paul had dual roles. He was the face of the law and a family member. He felt that he held these quite well: he was aware of the gravity of the charge and was able to express that. At the same time, he knew a bit of family history and that Elinor wanted to repair the relationship. He felt he could help with this too. He went into the conference with an open mind and thought it went well. He thought Alex realised during the conference that at the end of the day he was not going to get away with his offending. He also felt he helped the conference to move on, by going out to talk to Alex when he asked for a break. Paul talked to him about the fact that this conference was a good opportunity to put some things right, to let out some of his anger and to say how he really felt about things. 'I encouraged him to open up and make use of the conference instead of being defensive.'

Paul thought the agreement reached was a very good outcome for all. However he had some concerns about Alex's accountability: would Alex realise the serious nature of what he had done, and how would the agreements be followed up? Paul felt that it would be inappropriate for Elinor, also in a dual role of victim and mother, to be the one to do that.

The main concern for Dora was that they were working with a much damaged family relationship. 'The ante goes up when you've got a whole lot in the mix beyond the offence.' The offending was related to what had gone before and it was up to her and Bruce to set a scene which would enable a broken down family relationship to begin rebuilding. Alex and Elinor had both been open with her and Bruce about longstanding problems.

Dora said that Alex had begun the pre-conference interview fairly negatively. He was furious with his mother and wanted to get away from her and leave town. He also disclosed that he and Elaine were expecting a baby (something that never came up at the conference). It was important to Dora that Alex thought about dealing with his relationship with Elinor, build some confidence and develop some coping strategies so that there could

be some long term benefit for him from offending. Dora also said she was not sure that Elinor would come to the conference since she was so anxious and upset. She would cry easily when they talked about the conference beforehand. Dora didn't feel very hopeful that there would be a great outcome. 'It was a big agenda, to open the back door up a bit.'

For Dora, this was one of the longest conferences she had facilitated. It was also one that had required a lot of her input, due to the need to build a bridge between Alex and Elinor. She described it as emotional with shifting tensions and dynamics. She saw that a lot of what Paul said shut Alex down. But she felt it was important for Elinor to hear what he said because it validated her, a message Elinor was not getting from her son. All in all Dora thought the conference went better than she had anticipated.

Bruce thought that restoration was an unlikely outcome in this case because it would be hard to fulfil the aims and objectives of restorative justice given the participants' prior history. He was concerned on two accounts: first, Alex was too angry and wanting to 'run away' from the problem; and, second, the offence was complicated due to the domestic history which preceded it. He thought that the conference didn't fit restorative justice because the dispute was longstanding. He also felt uneasy because Elinor seemed to have no understanding as to why Alex committed the offence, when it was part of a series of events which she had been party to.

Considering his reservations, Bruce thought Elinor and Alex did relatively well. He was concerned that Alex's support, Elaine, did not say anything. He also thought that Paul, the cousin and police officer, was over-involved in the process (the familial relationship was something Bruce was not aware of till part way through the conference). He thought Paul's tone got very heavy and that Alex responded to him quite defensively.⁵

Bruce thought the agreement was the best it could have been under the circumstances, although possibly a bit optimistic. He thought the invitation to dinner was unrealistic and was more of an imposition. Bruce was not strongly convinced that Alex would follow through with the counselling either, as Alex appeared diffident about it. Bruce felt that some of Elinor's issues could not be addressed because they fell outside the scope of a restorative justice conference. 'There wasn't scope for Dora to say to Elinor that she was part of the problem. It wasn't just Alex's problem; the family overall needed help.'

After the sentence...

Alex was given a nine months sentence of supervision with special conditions that he attended an assessment for substance abuse, and thereafter take such treatment or counselling as directed by the probation officer. He was also ordered to pay reparation of \$725. The judge said that it was 'pleasing to see some real progress' had been made as a result of the restorative justice conference. He referred to the agreements reached and stated that the sentence imposed should 'try and reflect the agreements that were reached and provide some framework whereby those agreements can be implemented'. The judge referred to the fact that Alex's mother had brought the charges against him because she felt Alex's life was out of control and that he needed to realise that he had responsibilities. He then acknowledged that there was now some hope for the relationship between Alex and

5 It is important to note here how different parties can view events very differently. Elinor and Rachel did not feel that anyone had dominated the discussion and Alex responded 'don't know' to this question. Both facilitators, on the other hand, indicated that Paul dominated the discussion at times and that Alex was not happy with Paul's level of involvement and, at times, switched off.

his mother to be repaired. He also expressed optimism that Alex would face up to his difficulties and deal with his problems within the framework of supervision imposed.

Alex thought his sentence was very fair and he was pleased with it. He said that he had found the counselling very worthwhile and that it had helped him a lot. Elaine was relieved.

Elinor was also very pleased with the judge's sentence. She felt listened to because Alex's sentence reflected her wishes for him. She said: 'he obviously realised that I wanted Alex to be constructively in employment and getting on positively with his life'. She felt much happier with the criminal justice system now because the conference had had such a positive outcome. She also felt restorative justice had made Alex much more accountable for what he had done.

Rachel was pleased with the sentencing outcomes. Given that Alex was so close to going to jail, she felt he was quite lucky and fortunate to have had the support of so many good people. She also considered that the sentence gave him a second chance to sort himself out rather than head down a life of crime.

Paul was ambivalent about the sentencing. In his role as a police officer, he would have been harder on Alex and made the sentence more difficult to enable Alex to realise the gravity of his offending. But he also thought it was probably appropriate, given the circumstances surrounding the offence and the fact that Elinor wanted to repair her relationship with Alex.

Dora was pleased with the sentencing outcomes. She thought they were a good match for what Elinor wanted and what Alex needed. She was particularly pleased that Alex had been given supervision as part of his sentence. She felt strongly that supervision was totally essential to Alex's rehabilitation. She concluded: 'this was one of my favourite cases'.

Bruce thought the sentence was appropriate. It was sufficiently punitive and restrictive, whilst giving Alex support and recognition of his problems through counselling and being under supervision. He also thought that it was not just Alex's problems, but a wider family problem, which needed addressing, though this was beyond the justice system's jurisdiction.

Twelve months later...

Alex refused to be interviewed at this point in the evaluation.

Elinor immediately recalled the conference and noted in particular the skills of the facilitators. She added that it was good to have a support person with her. She was very satisfied with the conference overall and with the conference plan though not all had been followed through on: for example, Alex had not initiated counselling and she had not been informed by the facilitators of the progress of the case. She did not agree that conferences were designed primarily for the benefit of offenders, saying 'restorative justice conferences are a good place for victims to express their feelings and to finalise their feelings about the offence'. Elinor was also reasonably satisfied with the judge's sentence. She now felt more positively about Alex because, she said, he did what he was supposed to do and his apology was sincere. She said that she still thought about the offence every two or three months but this was 'in terms of recognising how far Alex had moved on and improved his life'. She described the offence as all behind her and felt that her participation had helped this. Generally, she felt more positively about the criminal justice system due to participating in the conference, saying 'because the facilitators

were quite “human”, the system felt a bit more “human”’. She also felt good about conferences and would recommend them to others. She would attend another one herself ‘depending on the circumstances’.

Case Study O

Matthew, a man in his 30s, is a repeat offender. He was looking for poppies one evening to feed his drug habit and, not having found any, looked for homes to break into to take items and cash, with which to buy drugs instead. He admitted one charge of being unlawfully in a building and three burglaries (as well as 10 charges of false pretences). This case study relates to the third conference that Matthew had for these offences. Jenni, the victim in this case study, was after some reluctance on her part persuaded to attend a conference. (Matthew's first conference had already been held and the second had been arranged). The facilitators were Jane (lead facilitator) and Frida (co-facilitator).

At the conference...

Matthew attended the conference with his lawyer, Paula, and Morris, a mentor with the rehabilitation centre where Matthew resided. Jenni attended with the policeman who had encouraged her to attend, Nigel. Matthew, Paula and Morris arrived early and sat and waited for Jenni and Nigel to arrive. Matthew looked nervous. Jenni and Nigel arrived just on 5pm (the time the conference was due to start) and greeted Matthew a little coolly. The conference began at 5pm, with Matthew and his support sitting on one side of the room and Jenni and Nigel sitting opposite them. Jane welcomed everybody, and then asked everyone to introduce themselves. She set some ground rules and reminded everyone that the conference was a place which was relaxed and informal and where there was the opportunity, especially for Jenni and Matthew, to talk. She also explained the process that the conference would take. After the police Summary of Facts was read by Nigel, Jane invited Jenni to speak.

Jenni began by telling Matthew how 'very, very difficult' it was to come to the conference. She talked about how his burglary had impacted on her ability to feel safe at home. She said she did not want to go home at night and told Matthew about how inadequate she now felt to the point of having panic attacks, something that was completely alien to her.

After a short silence Matthew spoke. He said he had something to say which would help her understand and make it better. He told her how her home was chosen by him completely at random. He had not been casing it.

Jenni interrupted Matthew at this point and said: 'It doesn't matter. All for a handbag and a bottle of rum. The emotional trauma you've put me through is totally unacceptable'. She told him she could not forgive him. Everyone had choices and there were responsibilities, which went along with those choices.

Matthew responded by saying 'You know, you are absolutely right. I don't know what to say to you. I could easily say I didn't know what I was doing'. Jenni then questioned Matthew about whether he knew what he was doing that night during all four burglaries. Matthew explained he had taken pills. Jenni said she still disbelieved Matthew's lack of awareness of his actions at the time. Matthew then talked about how in the past when he saw himself as a victim, he did not care about how he impacted on his victims. He agreed with Jenni that he did not know how she felt.

Jenni tried to encourage Matthew to empathise by suggesting she take something precious from him. She told Matthew that he had taken her sense of safety from her. She asked him to think about how her taking something from him would impact on him. Would it help him understand how she felt?

Matthew responded by saying that he did not 'know how to make it better', or what to do. Unfortunately she got caught in his 'wake'. Jenni also said she didn't know what to do either. Her experience of being caught in his wake was like being unable to swim and drowning.

Jane interrupted at this point, reminding Matthew that he was trying to turn himself around by addressing his offending and facing his victims. Nigel explained his becoming so involved. This time Matthew was not just facing the judge and going to jail again. He had the chance to do something else, which could prove to be more positive for him in the long term. Matthew then spoke about how facing the victims in this way had had a bigger impact than the judge telling him what he had done wrong and then putting him in jail.

Jenni enquired about how Matthew felt about coming voluntarily to a conference. Both Jane and Paula explained the process that had to be gone through for Matthew to get a conference, adding that Matthew could have opted out. Jenni was also curious about whether or not Matthew would be given greater leniency by the judge by attending the conferences. Paula explained that the conference would be weighed up but would not be a decisive factor. Frida told Jenni that it was for her. The most important thing was what would help put things right for her.

Jane then invited Morris to speak. Morris thanked everyone for coming and Jenni for sharing so fully about the impact Matthew's offending had had on her. Morris told his own story about drug abuse and how the programme at the residential house had helped him. Jenni asked him if Matthew had been to the residential house before.

Matthew talked about his previous experience there and how he was asked to leave because he was still using drugs. However, he was changing his beliefs about addiction since the last time and realised now that he could not take drugs, even socially. He had to change his thinking to believe that having a good time was not synonymous with drug taking. Jane asked Matthew to outline how he saw his plan for his life over the next two years. Matthew said that he would like to stay at the residential house for the next two years and not go to jail.

Jenni initiated a break at this stage. The facilitators went with Jenni after briefly talking with Matthew. They reconvened the conference ten minutes later. Jane suggested that it was probably possible to move on now.

Jenni spoke first. She said: 'Before Morris spoke, I thought I wanted you to go to prison. You're a very intelligent person and it sickens me that you are not doing anything with it. If you came off drugs, things would get better and better'. She suggested that he have a photo of her with him to remind him of whom he had offended against. This was discussed and this idea was agreed to.

Matthew then offered to pay the \$150 reparation he owed Jenni. He also told her that he was an arborist and that he had offered his services to the other victims. He offered his services to her too. Jenni agreed and asked for 20 hours of work in her garden. Jenni then recommended that Matthew go to the residential house. 'This, my friend, is your last chance, so don't stuff this up.' Paula then reinforced Jenni's statement.

Matthew began then to tell more about his story and how he got into drugs. He talked about his five-year-old son and how this was his son's last chance to see a different father. Jenni suggested that this might be the 'real you'. Matthew went on to talk about life decisions he had to make now. It was hard. Jenni informed him that knowing this did not help her. It was still too raw for her.

Jane brought them back to the agreement asking Matthew if there was anything else to add. Matthew said the outcomes needed to be honoured regardless of what the judge decided.

Paula told Jenni when Matthew was going to be sentenced and invited her to attend. Matthew then interjected. He said: 'I know this isn't going to cut the butter. I do apologise for what I've done to you'. Frida asked Jenni if she could accept the apology as sincere. Jenni responded by saying: 'I did expect Matthew to apologise at some point. I do feel it is sincere. I believed it wouldn't make a difference, but it has made a little'.

Jane then thanked everyone for attending and for their openness and willingness to change. Matthew said: 'I'll make it so that I never see you ladies again, lovely though you are'. He thanked Jane and Frida for making it happen. Everybody then left.

After the conference...

This was Matthew's third conference, which helped him to have some sense of familiarity with the process. He said that he saw each conference as new, however, because he did not want to give the impression that it was rehearsed or fake. He felt very grateful toward all the victims for enabling the conferences to go ahead, but he was more nervous about this conference because he knew that Jenni had been really shaken by the burglary and was ambivalent about attending the conference.

Matthew said that he wanted to go to the conference because he wanted to feel better inside. He knew that the only way that he could perhaps achieve this was by confronting the people who had been the victims of his crimes and by standing before them with his honesty. He thought that the purpose of the conference was to bring insight for himself about the impact of his offending and insight for the victims about his motivation.

Initially, Matthew said that he felt apprehensive, nervous and paranoid. However, he also said that the process of the conference had allowed him to become fully aware of the impact of his crime on Jenni by taking him to 'a better depth of shame'. It also gave him the opportunity to acknowledge his wrongdoing and to apologise. He felt that this was just a beginning in terms of making up for what he had done. He believed that apologising was a step in a process, and not the event in itself. 'I'd be pretty disrespectful to think that I could make amends – that that would match up with the consequences those people have suffered.'

He liked the conference process because it allowed him to match up the faces with the consequences of his own crime. 'You don't normally get to see the consequences of your own crime on others. It makes crime and its effects more real.' He felt really bad about the effect that his crime had had on Jenni and he said that seeing her distress and anger was motivating for him to turn a corner with his life and to go in a better direction. He also called a meeting at the residential house after each conference to share what had happened for him. Coming to the conference was not a soft option for Matthew, he said. It was hard for him to go, but necessary if his life was going to change.

Paula felt slightly nervous about this conference because she knew that Jenni was not keen to attend. The fact that Matthew had attended two previous conferences, which had been quite successful, allayed some of Paula's nervousness, however. She felt that this was a good time for Matthew to be doing these conferences because he was now able to appreciate the impact of his crime on the victims. Going to three conferences meant that he had to keep facing people, which made the impact of his actions very clear to him. She also felt comfortable because she knew the facilitators and was easy with the process. She was pleased that Jenni had support, to address the imbalance in the number of people present.

However, Paula said that the way that the conference developed was not how she had thought it would go. Jenni surprised her. She was much more aggressive than Paula imagined she would be, almost verging on physically confronting Matthew, to the point of feeling uncomfortable. Paula was glad that this was Matthew's third conference and not his first, as she doubted that he would have gone to the others had this one been the first. As it was, Matthew was saying, 'Oh, not another one!' Paula also found Jenni's change of heart quite odd and contradictory after the break, when discussing the outcomes. Whereas, at the beginning, Jenni had been aggressive toward Matthew, she was now suggesting that Matthew come to her house and do some work for her. Paula said that it was also good to be present in her capacity as a lawyer. Paula felt able to provide a sense of reality for the victims when discussing possible agreements, as to what was and was not possible legally.

Morris said that he decided to attend the conference with Matthew because he had no family to support him there. He had also attended two previous conferences with Matthew but said that this one was very different. He described Jenni as 'giving it' to Matthew 'no holds barred'. Morris felt that this had made an impact on Matthew in a way that the two previous conferences had not. Morris also said that Matthew had returned to the residential centre 'quite cocky' after the first two conferences, as if he had got away with something. However, after the third, he was 'shell shocked' by the level of the victim's anger and the impact that his offending had had on her. He ended his comments on the conference with 'she was there to talk, not to listen, and this was unusual for Matthew who is a great talker'.

Morris did have some reservations about the way the plan had worked out. Because the victims wanted Matthew to be supervised while doing the tree work for them, Morris ended up agreeing to do this. This meant he had to do 40 hours extra work, which the residential house had paid for. 'My boss was not happy to find this had been agreed to.' Morris said he had agreed on the spot without thinking through the practicalities.

Jenni said she was very nervous about going to the conference. She did not want to have anything to do with Matthew at all, and felt really angry about the havoc that his crime had created in her life. She said that it had shattered her sense of herself as a strong capable person and that she now felt vulnerable. However, she said that she decided to go to the conference because the arresting officer had convinced her to. He had suggested to her that it may help her if she met Matthew to see what kind of person he was. She also needed Matthew to know about the impact on her of what he had done. She thought the conference was about achieving closure.

Initially, Jenni said that she felt very nervous and judgemental. She was glad to have Nigel there as a support and would not have gone had he not gone. She thought that it was important to have someone there who understood the system. In the beginning, Jenni said that she had wanted Matthew to go to prison for the distress he had caused her, but, after meeting him and hearing his story as well as being able to tell hers in no uncertain terms, she felt sorry for him and identified him as a victim himself. She also saw that he was an ordinary, if somewhat misguided, individual and that there was no real reason to fear him.

The conference for Jenni, she said, was a turning point from which she drew inner strength, and which had helped to make her a better, rather than a frightened, person. Throughout the conference, she felt involved and, by the end, she said that she knew that she was 'going to get over this'. She also said that she felt less frightened and emotionally drained. It had allowed her to have some closure and to 'get rid of the monsters in [her] mind'. She saw that confronting her fear allowed her to conquer it. She also understood that the offence was a random event and this, therefore, enabled her to feel less frightened. She was adamant that she would still feel frightened if she had not actually got to meet Matthew. 'Restorative justice conferences help with emotional scars.'

One of the main concerns for Nigel was how Jenni would stand up to eyeballing Matthew and being in the same room with him. He said that it took him quite some time to persuade her to come to the conference. He had had to assure her that he would be there and would sit in the conference with her, for her to come. Matthew was known to Nigel and he wanted Matthew to have the chance to do something different, rather than go to jail again, which was why he worked hard at getting Jenni to come along.

Nigel was impressed at how smoothly everything did go at the conference. He was pleased that Jenni got to air her worries and concerns. And he said that it was good that Matthew had been able to reassure her that he was not targeting her. Nigel thought that the best feature of the agreement was pushing for Matthew to go to the residential house rather than to prison. He knew that it would be the only place that would help Matthew and keep him from offending. The usual pattern was that Matthew would go to prison and be out in 6 months and then he would reoffend. At least in this situation [being in the residential house], Matthew would be away from any danger of reoffending for a significant period with the hope that he would be able to deal with his addiction.

Jane felt that the conference would be a good thing for Jenni because of the tremendous effect Matthew's offending had had on her. She thought that meeting Matthew would help Jenni. Jane also thought that it would be helpful for Matthew to see how much his actions had affected others. Jane did feel confused during the conference as Jenni did not appear as distressed as she claimed and Jane thought that she didn't appear to be really interested in Matthew. She was pleased when Morris told his story about how he had turned his life around by going through the programme at the residential house. He had not done this at the other conferences, and she wondered if perhaps Morris had done this to help Jenni move forward. This helped turn the conference around as, before then, Jane felt that things were not going well. She also felt a bit of concern for Matthew as he had got a fair rolicking from Jenni. She was worried that he might become depressed. Jane also felt that the agreement was bizarre given that Jenni had said she was afraid of Matthew and had become afraid to be at home because of it all. But she acknowledged that both parties were happy with the agreement and that was the thing that was most important. It did not matter what she thought about it.

Frida had reservations about this conference, because of the seeming dual nature of Jenni, who portrayed herself as being damaged by the incident and yet came across very strongly. She felt that maybe Jenni was going to make this hard for Matthew. However, she did think that her anger was real but her terror seemed out of proportion, so she kept a mental note to watch carefully. Frida was also concerned about Jenni's sincerity because she kept chopping and changing her mind about attending. She thought this would be a difficult conference for Matthew because of this and Jenni's anger. She did not think that this would harm Matthew, but rather that, in fact, it would be good for him to see a range of effects that he was capable of causing through his dishonesty. Matthew had made it clear that he was there to be accountable and to listen to the victim's stories, and so he was well prepared for what might happen. Overall, Frida thought that the conference went pretty well. She said that she felt confused about Nigel's role, in that he was there to support Jenni, yet was highly supportive of Matthew. She hoped that Jenni felt supported enough. She also felt concern about and

surprise at some of the outcomes. She found the suggestion of Jenni giving Matthew a photo of her to carry round as a reminder of the offence 'bizarre', and she raised potential safety issues for Matthew around him going to Jenni's house to do garden work. She said that she was glad that he would be supervised while doing this work.

After the sentence...

Matthew was sentenced to 18 months imprisonment, but the judge allowed him leave to apply for home detention. He deferred the prison sentence for two months for Matthew's application to be heard and to allow Matthew to continue to reside at the residential house. Matthew was also ordered to pay over \$2,700 in reparation. In deciding on the sentence, the judge took into account Matthew's extensive criminal record and his severe drug problem. He also noted that Matthew had 'impressed the victims who participated in the conferences' and that they had 'accepted with some confidence' that Matthew was capable of changing his behaviour. The judge noted that 'the court would be entitled to be sceptical, given your record'. However, the judge also noted 'another feature' which entitled him to take a risk: Matthew's response to his recent stay in the residential centre. On the other hand, the pre-sentence report was not encouraging. It referred to Matthew's 'expressed motivation towards a shift in behaviour' as 'questionable'. On balance, the judge felt that the 'best prospects' for Matthew's rehabilitation lay in 'an extensive stay' at the residential house.

Matthew told the researcher that he was really pleased the judge decided to allow him to stay in the rehabilitation centre. He knew that, because he was a repeat offender, his chances of staying out of prison were slim at the best. However, he stressed that he did not go to the conferences to stay out of jail. He saw going to the conferences was part of a process of healing himself. He was grateful to be given the opportunity to do so. He was aware that he may not 'make it', but he said it was his sincere wish that he did. By being on home detention, he knew that he had a better chance of success than in prison. He was also glad to be able to give something back to the victims in terms of doing some gardening work for them.

Paula was happy with the sentencing outcome, in that Matthew's jail sentence was deferred to allow home detention at the rehabilitation unit. She was hopeful that things would continue to go well for Matthew. She felt that he was continuing to move forward and that he was keeping faith with the conference victims.

Morris thought the sentence was quite positive as Matthew was not sent immediately to jail but had the chance to turn his life around. However, he also informed us that Matthew had breached the conditions of the residential centre and was, at the time of the interview, in prison.

Jenni was happy with the sentence that Matthew received. It was everything that she had asked for. She was glad he would have another chance to clean his act up, and she expressed the hope that he might be a good role model for his young son someday.

Nigel thought the sentence was the right sentence for Matthew. It was also in line with what everyone at the conference agreed was the right thing to do. There was no radical difference between what was asked for and what Matthew got.

Jane also thought that the sentence was right. It was what the residential house wanted for Matthew: to be under their care for two years. She was also pleased that the judge read the conference reports and took the wishes of the victims into account.

Frida thought that the judge made a good sentencing decision. She also felt that Matthew was very lucky to get home detention at the residential house, after having already had one attempt at staying there previously and failing. She thought that the conference had probably contributed to Matthew getting the sentence he did.

Twelve months later...

The thing Matthew remembered most about the conference was the impact of his offending on the victim. He remained very positive about the conference – saying he was very satisfied with it overall. He was pretty satisfied with his sentence. He felt that the conference had benefited both him and the victim. The whole conference plan had been completed except that Jenni had not given him a photo of her. He added: 'I didn't encourage it either'. Matthew said that he had not reoffended and that being more aware of the impact of his offending on victims was a factor. He added that he had already recommended restorative justice conferences to others. He would not attend another himself but this was because he was confident he would not reoffend. He felt much the same now about the criminal justice system as he had before, adding that he considered the criminal justice system needed to be more aware of the mental health problems which contribute to offending.

Jenni said that, as a result of the conference, she had 'a sense of closure'. She had found the conference 'quite overwhelming, but was still pretty satisfied with it. It had 'achieved what it set out to do'. She too felt it had benefited both her and Matthew. With respect to not giving Matthew her photo, she said 'it was never followed up – I'm not sure why'. Jenni now felt more positive about Matthew and gave as a reason for this the fact that his apology was sincere. However, Jenni said that she still thought about the offence daily and described its impact on her as still relatively high (she ranked it 6 out of 10 when 10 was the highest ranking). She said it was now partly behind her and that her participation in the conference had helped with this. Overall, she felt more positive about the criminal justice system as a result of her participation and would recommend them to others: '100%'. She also said she would go to another conference 'as long as the information and support given in advance and afterwards was as good as for this conference'.

Case Study P

This case study concerned an incident of common assault at a teenagers' party. The offender, Michael, was an adopted young man who identified as Māori and New Zealander. He was aged 19 years at the time of the offence. He was carrying out the role of a guard at his girlfriend's party, when the victim, a seventeen-year-old New Zealand European called Damion, accused Michael of sitting in a car smoking cannabis. Michael hit Damion who fell face down breaking his nose, an injury that required suturing, internal pressure to stop the bleeding, and later realignment. Of particular significance in this conference was Damion's attitude towards Michael, initially conveyed to the court through the court victim adviser, before the conference, and, at the conference, the 'bonding' between the two teens and between their mothers. Also notable was the direction of the court after seeing the conference report and other documentation, and how it impacted on the conference's participants. There was also confusion about who was to choose and monitor the court-directed community service. Hamish (lead facilitator) and Margaret (co-facilitator) facilitated the conference.

At the conference...

Hamish introduced the parties and first asked Michael to talk about the offending from his point of view. Michael gave an account of what had happened. He said that he had been screening out unwanted party-goers at his girlfriend's party and had had to deal with a fight between two girls and another between two gangs. Someone told Damion that Michael was smoking dak in his car. Damion passed this information on to Michael's girlfriend. They then had an argument. As a result, Michael was upset because she had not believed that he was only listening to music. He reacted impulsively and hit Damion. He had not meant to hit him so hard. He felt sick when he learned of the effects of what he had done.

Hamish then asked Damion if he felt scared. He replied 'No'. Hamish then asked Damion how it was for him. Damion relayed how he had gone to hospital but didn't want to telephone his mother, who often slept badly at that time of day. This was because it was the same time her husband, Damien's father, had died eighteen months ago. However, the hospital staff insisted he should ring her.

Damion's mother, Lisa, then spoke, saying how very pleased she was to attend the conference to meet Michael and his family. She described how she had to take time off work to visit her son in hospital. Damion interrupted: 'It wasn't that bad', he said. His mother continued, describing her experience as being like a stone rippling in a pond. She commented, however, that she appreciated what Michael said when he described how upset he had been by his actions.

Michael's father, John, said that he was angry with his son. He felt that alcohol was to blame. He added that this [the assault] was not the way Michael was brought up and felt that the matter was an 'isolated incident'.

The conference focussed then on the impact of Damion's injuries, the pain he had suffered and the ongoing consequences of the assault. Damion had also been afraid that Michael might hit him again but that, having attended the conference, he no longer felt this threat.

Next, Hamish, read the paragraph in Damion's letter to the Court. It discussed the outcomes he wanted. Lisa expressed a wish for Michael to not receive a conviction or imprisonment. Michael's parents appreciated this. They offered to cover Damion's costs and added over \$100 to cover 'unexpected costs'. This was to be paid soon after the conference. They would 'recover' it from their son who worked for his father. The conference also heard how Michael had been attending an anger management programme and having counselling once per week.

It was agreed that Michael pay Damion \$500, write him a letter of apology, and continue with the anger management course and counselling. Hamish agreed to act as a go-between or collector of the letter and reparation and deliver it Damion.

After the conference...

Michael was under the impression the conference was trying to achieve 'a sort of second chance for some people, and a bit of an education about how the victim felt'. At the beginning of the conference, Michael said he did not want to be there, or to face Damion. However, he tried to make it easier for Damion by getting up and shaking his hand. Significantly, Michael stated: 'We [the victim and I] only got agitated when our support people presented their views. They differed from ours. I think it's because teens see things differently from others; they have their own rules'. At the end of the conference, Michael felt quite comfortable and would be happy to see Damion again. 'We could almost be friends. It was good that we got to meet. Initially I thought he would put me through a lot, but then I got to understand what he went through.'

Michael felt involved with the process but, at times, found his support people were talking for him. 'At one time, I told my father to stop talking; he was getting in too deep, making things worse.' Although he understood everything that went on, Michael thought Hamish dragged things on a bit. 'I felt we did more than we needed to. I would have preferred Damion and me to go to a room quietly and talk man to man, say our views, without interruption. You only get one chance to say what you want to say.' Michael did not feel too scared to say what he felt and, notwithstanding his comments about his father, considered no one said too much. 'It was not that he said too much; it was what he said. It was unnecessary.'

Michael considered he was partly able to make up for what he did by meeting Damion face-to-face, apologising and paying for his damages (medical, clothing and parking expenses). 'I wanted him to know I hadn't done it before and haven't done it since.' His apology was accepted through attending the conference, he gained an understanding of how Damion felt. Michael felt partly ashamed of what he had done. 'I mean I didn't feel ashamed because there was a way he could have avoided it. He made an assumption. But I feel sick when I think of the damage I did.'

Michael felt he was not treated as though he was a bad person at the conference. 'No, because I would never think I was a bad person.' Having his parents there as support people was partially helpful, although he did not feel he needed support. 'I was really prepared for it', he declared. The agreement reached at the conference, decided by all of them, was easily understood and somewhat better than he had expected. He was satisfied with the plan, commenting: 'You're never going to be completely satisfied'. The best part of the plan was the avoidance of a criminal conviction.

Michael considered there were no bad parts to the conference, although he qualified this with: 'I'd prefer to get off scot-free... I'm happy he accepted my apology'. He considered the plan to be 'about right'. The best parts of the conference were having a chance to say 'sorry', to say how he felt, to find out how Damion felt, to 'get away without a conviction', and to reduce Damion's stress. In fact, overall, he said he was quite satisfied with it. He thought the report was very accurate. 'I quite liked it', he commented. He was positive about restorative justice conferences in general, adding that 'you need to be positive going into it'. He would recommend them to others, 'but maybe not for everyone. If people want to say sorry, this is the way to do it'. Participating led to his personal resolve to never hit anyone again. 'I got to hear how the victim felt. I'd hate to put my family through that again.'

Damion saw the meeting as an opportunity for him and Michael to meet midway, so they could understand each other's view and to 'do a joint closure' on the issue. However, at the beginning of the conference, he said that he felt quite nervous and frightened. 'What if he came over and hit me again?' he asked himself. However, when Michael apologised at the start, Damion had no fear. Hamish ensured everyone was involved, 'always asking people how they felt. He gave people a chance to speak, and he facilitated for people who needed a 'train-stop so they could hop on'. Damion was given the chance to explain how he felt and to say whatever he wanted to say. 'I was even asked my points of view on things.' He did not feel too scared to say what he felt. 'You've got to be a lot more civil about things. You've got to give the 'G' rated version of things', he explained. When the conference finished, Damion felt closure. 'I felt like things had been resolved as much as they could. There was nothing left unsaid. We had a clear understanding of each other.' He felt with Michael 'as comfortable as you do with an acquaintance'.

Damion said that he felt safe and that he was treated with respect throughout the process. 'I was even offered a glass of juice.' He felt that Michael had been partly able to make up for what he had done. 'Well, I got my money to repay the costs, he's said he was sorry and I received a letter as well. Really, there's nothing more he could have done. But you still would rather it never happened.' He accepted Michael's apology. When asked if Michael had understood how he felt, Damion replied: 'On some levels, yeah. He definitely knew where I was coming from. He was sorry. He had a sincere face, and you can't fake that sort of sincerity. He obviously had a lot of remorse over what happened'.

Damion's mother supported him during the conference and it was useful having her there. However, he would have liked more support. 'But once it started happening it didn't matter. I wouldn't have minded having my friend there.' He agreed 'absolutely' with the plan, and considered its best aspect was that they had all agreed upon it.

After participating in the conference Damion said that he felt better. 'Well, after talking, I feel closure. I viewed it as a problem. I now feel the problem has been taken care of. Having greater understanding has contributed to this', he declared. The best parts of the conference were the involvement of everyone and hearing everyone's views. 'There were things I hadn't heard my Mum say before that were beneficial.' As a result of attending the conference, Damion felt safer. He felt very satisfied with the conference overall, although he had nothing to compare it with. 'I don't see how it could have gone any better.' He was pleased he participated, commenting: 'I feel it helped to get my view and understanding from Mr... as well. Otherwise, it's just something he gets sentenced for, but the issues are never resolved. It's like a little kid being told not to do something, but not being told why he's not to do it'.

When asked whether the conference had taken care of his cultural needs, Damion stated that it was not an issue for him. 'I feel that's just how the world works. It is European culture. You don't find something special for western things. It's what is understood and common.' He thought 'restorative justice conferences in

general, were very beneficial for anyone else in my or Mr...’s situation. Even if they need closure, they should look into using the system’. He said that he would go to another if he found himself a victim again.

Michael’s mother, Isobel, was pleased to be able to meet Damion. Prior to that, Michael had had to be careful to maintain the non-association order. This was not easy when they mixed in similar groups and areas. ‘The meeting was totally professional. We were like family and we were fine. Both sides were intelligent. We and both boys were like-minded. Under normal circumstances, you would try to talk to others but with the criminal justice system it was not possible.’ Isobel thought restorative justice was ‘absolutely fine’, and reiterated how it would have been better if it had ‘kicked in’ earlier to remove uncertainty. It would have made it easier for the boys. ‘Probably the kids are harder on themselves than they believe’, she added. She also liked Damion and his mother.

Lisa was ‘perfectly comfortable’ at the beginning of the conference, having spent time with Margaret. She was very impressed with Hamish’s conducting of the conference. ‘He had no animosity towards the lad. It cleared the air...I talked about my daughter’s offending during a rebellious time...They offered us a drink and afternoon tea. They were very gracious.’ Lisa was full of praise for the process. ‘I thought it was most diplomatic. I was extremely impressed. It was first class. If the law is going that way, then it’s a much better way. You see, the boy has learned from us all.’ She described the impact of the incident on Damion. ‘This impacted on Damion’s chance of an A bursary. Because of necessary absences from school, he did not perform well enough. So he missed an opportunity to do a conjoint degree.’ Lisa was also very proud of Damion at the conference. ‘Their father died eighteen months ago, and they’ve matured a lot.’ She noted too, that Damion might need corrective surgery to his nose later on. Lisa was not overly happy with the reparation offered. She felt that it wasn’t much considering the disruption the episode had had on their lives. She considered that double the amount would have been ‘more in keeping’.

Margaret, the co-facilitator, took notes at the conference. In her view the process ‘did work’. She observed how the two Mums forged links about the boys going to parties. ‘Both had a similar belief system.’ Another link she saw was the way the boys thought about their mothers. ‘When Damion said he didn’t want to worry his Mum, the other boy commented that he would have been the same. When people see they have common values and belief systems, it stops them having prejudices.’ When Michael said ‘I didn’t mean to hurt you and my heart leapt up into my throat when I saw how hurt you were’, and ‘I just felt sick about it’, it impressed Margaret. ‘His words painted a picture of how he felt... It was very genuine.’

Hamish described the various drafts of the report and how he and Margaret worked out what should and should not be included. At Margaret’s insistence, the discussion about Damion’s sister’s previous offending was kept very general to protect her privacy. Hamish delivered the report and copies of the letter of apology and the receipt for \$500 to the court. Overall, he felt the conference went well. He particularly stressed how pleased the mother of the victim had been to attend and meet the parents of the offender.

After the sentence...

Michael attended the court expecting to be sentenced. Instead, the court directed that he do 60 hours community service, before agreeing to give him a discharge without conviction. The matter was adjourned a further three months to enable him to do this. Michael was ‘happy with one and a half week’s community service to pay what I owed him’. He was subsequently discharged without conviction, a sentence he considered moderately fair. He did not feel able to comment on his feelings about the criminal justice system, as he had never had any prior experience to compare it with. His views on restorative justice, however, remained positive.

'I reckon they're good. Without that I'd have a criminal record by now. And they could do that for other people.' Michael believed that attending the conference would stop him offending in the future. *'It's a chance to meet the person again. I wouldn't hit him now.'*

Isobel described some of the confusion that arose about who was to choose and monitor Michael's community service. Michael's lawyer 'had the impression' that they made their own arrangements. Her son wanted to do it at the Salvation Army. Apparently at the same time, the co-facilitator, Margaret, went along to her church and arranged some other work. Hamish and Margaret were 'terribly enthusiastic', she stated, emphasising that this was not a criticism. The family did not know whether they were 'confined' to doing what the facilitators had organised. 'We wondered whose role it was to plan or arrange the community service...the lawyer felt it was his role. Hamish did it out of genuine interest in Michael, but no one told us. I think it was just a whole lot of people trying to get it organised for him. It's been interesting', she concluded. However, Isobel was very pleased with the final outcome. What she hoped for happened. 'I hoped that if he did all this that he would be discharged without a conviction. He's come a long way, a huge long way. I think it's a maturation thing as much as anything. The restorative justice conference would have been one of the things that has contributed.'

John commented: 'It was the outcome we wanted, of course. I think it was handled very well right the way through. The other party wanted a positive outcome too, which helped a great deal'. Generally speaking, John felt that restorative justice had a lot to offer.

Like everyone else, Damion was happy with the sentence. He thought that the victim impact statement and the conference report would have contributed to the 'bigger picture, getting both our views across'. He considered the sentence took account of his wishes, but not his needs. He remained in favour of restorative justice conferences, especially the 'controlled environment where both parties could talk things through'. He said that he would recommend the process to others and, if he was a victim again, he would attend another conference. Damion's mother was unable to be contacted post sentence.

Hamish noted how impressed the judge appeared to be with the report, with the victim's and offender's letters, and how 'it all made a closed circle'. It showed 'transformation'. According to Hamish, however, 'the shape of things then changed at sentencing. At the conference, the family of the offender were very contrite, prepared and ready to go forward. After sentencing, they wouldn't answer my calls. They wanted to control the community work Michael did. I had to chase them up, gave them until Monday for the offender to go to the Salvation Army that week, otherwise "you're on your own!" There were eight and a half hours of work not paid. That arrangement was struck with the court when we submitted the report and collected and delivered the letters. However, the court took another view, arguing that it was the continuation of the plan'. He also reported spending considerable amounts of unpaid time monitoring the completion of the community service, an aspect of sentencing which was not an agreement in the conference.

Overall, Hamish considered the outcome was 'the most excellent outcome possible, given the physical injury and its seriousness'. He explained that the report from the agency which supervised 32 of Michael's 60 hours community service with the Salvation Army was very positive about him. It stated something like: 'This person is not like the others!' The additional time of community service brought his total to 64 hours. This was carried out in a youth organisation, and Hamish had doubts about how community oriented it was. He sensed it was more fun than service. He asked whether or not it should be possible for offenders to nominate their own type of community service. He likened this monitoring role to being a volunteer probation officer, one he did not really welcome.

Margaret thought the sentence fair and added: 'I think Michael was genuinely remorseful and it was worthwhile giving him another chance. He came from a supportive home and he was not used to that kind of behaviour. [The sentence] would give him a message about alcohol and drugs. Both mothers did not want him to go to jail. They saw him as a young man who'd made a silly mistake'.

Twelve months later...

Michael recalled the conference immediately and said that he was pleased to have had it: 'to make things clear'. He was very satisfied with the conference overall and was pretty satisfied with the plan. He said that he completed all of the agreements and added: 'it ended up with a better end to it all. I've seen the guy a few times and shaken hands'. He was also very satisfied with his sentence: 'she gave me what she said she would'. Michael said that he had not reoffended and felt that the conference had contributed to this though he added: 'I think [it was] the whole ordeal. [It was] the first time I'd done anything wrong'. He said that he felt more positively about the criminal justice system as a result of participating, would recommend conferences to others and would attend another if he had to.

Damion found it less easy to recall the conference, but liked the way it was organised as it made him feel 'more relaxed'. He said that he was very satisfied with it overall and with the plan. He totally disagreed that conferences were primarily for the benefit of offenders: 'they're a benefit to both sides'. Damion was also pretty satisfied with the sentence. He now felt more positively towards Michael and considered this was because he had done what he was supposed to, his apology was sincere, and he had talked to others about the conference. He added: 'even now, there is no ill feeling between us'. Damion saw the offence as now behind him. He felt that his participation in the conference and the passage of time had contributed to this. He too said that he felt more positively about the criminal justice system as a result of participating in the conference. He would recommend the process to others, depending on the circumstances, and would attend another if he had to.

Case Study Q

This case study involves two young men, Alan and Peter, who, with others, took a car from outside the home of the victim, Toby, and drove it some distance. The car eventually broke down, was damaged and some property taken. The facilitator (Jean) and co-facilitator (Bob) met separately with Alan and his father, with Peter and his mother and stepfather, and with Toby and his wife to explain the process and answer their questions. All agreed to participate. At the victim's request, separate conferences were held for each offender. The conferences were arranged to run back to back, again to suit the victim. The case study demonstrates the potential benefits and pitfalls of doing this and the generosity of victims.

At the conference...

The first conference was due to start at 9.00am and the second at 10.15am. Alan and his father, and Peter and his stepfather, however, arrived together as Peter was, at the time, living with Alan and his father. Toby did not have any support people with him. The first conference actually started about twenty minutes late for no clear reason. Everyone was there on time.

Alan's conference

Jean welcomed everyone and thanked them for the efforts they had made to attend, especially Toby who was using crutches after a recent operation to his foot. She said that there would be no prayer to begin the conference in accordance with Toby's wishes. Everyone introduced themselves. At this point, Toby said: 'I don't want my son to be in this position and I don't want to be in the position of your father. I don't know why this happened and I am here to find out'.

Jean reminded everyone of the pre-conference meetings where it was agreed the purpose of the conference was for Alan to find out how others were affected by his offending and to explore ways to repair the harm done. She explained the conference procedure and Bob set out the ground rules.

The police Summary of Facts was read by Bob. Alan admitted what they had done was 'really stupid'. Jean asked him what he was thinking about when they took the car, suggesting he go back to the beginning. Alan described what happened, but said he couldn't explain why it had happened: 'you get caught up in the flow of things'.

Toby responded by saying that he had a 'sense of violation' when he saw the damage done to his car: 'you could have brought it back in good condition. It appears as if someone was jumping on the roof'. He also described various missing items including a set of keys to his company's offices. As a result, the company had had to change many of its locks. However, he made it clear that he did not seek retribution although such acts had to have consequences; rather he wanted to participate in any process that might allow offenders to 'turn their lives around'. 'I'm happy to move forward. How do we make it work? We all make mistakes and how you face up to it is the measure of the man.' He asked Alan to explain more fully what had happened and why he had done it.

Before Alan could do this, Jean asked Alan's father, Michael, if he had anything to say. He responded: 'It's hard to put a finger on why things happen, why some kids go off the rails'. He provided some background information about Alan, including the difficulties he experienced when his parents relationship broke up (when he was 14). He explained that Alan 'went off the rails' and this had escalated over a period of time. He noted however, that, recently there had been a positive change in Alan's behaviour. He and Alan were able to communicate better and he believed that Alan now wanted 'to sort himself out'.

The facilitator asked Alan how it had been for him. Alan stated that he was not involved in the damage at all. He stressed that there were no drugs or alcohol involved. However, he said that he was unable to explain his actions and was still coming to terms with the stupidity of what he had done. He told Toby that since the offence, he had become a father. He now realised that he couldn't 'play silly buggers any more'. He was concerned about the uncertainty concerning his future – he was worried he might be sent to jail – and said that because of the curfew he was under (as part of his bail conditions), he was finding it difficult to get a job. 'I feel quite bad about the whole thing.' However, he stressed that neither he nor Peter did the damage to the car.

Toby estimated the financial costs of the offending to be almost \$10,000. In addition, he mentioned the inconvenience caused to the family. He was no longer sure he even wanted the vehicle back. He then said to Alan: 'you cannot have accountability unless you have consequences'. He encouraged Alan to take responsibility for his life. Toby reiterated that he was not seeking restoration but would like something to be put back in to the community. 'You need to take this opportunity to rehabilitate yourself. It's a turning point. Put things right for your dad, for you and your family, as well as the company shareholders. Maybe you're going through hell, but maybe that's not a bad thing.'

The conference took a break at this point, at the suggestion of the facilitator. This was a planned part of the process and the facilitator's intention seemed to be that Alan and his father would discuss possible plans. However, there was no 'real' break as Toby, Alan and Michael continued to talk while Jean and Bob made coffee. Toby asked Alan if he was working. He was not. 'It's hard with previous convictions and doing PD at the moment.' Michael added that he was trying to get Alan into work and that his other son went to university.

After the break, Jean said to Alan that it was time for him to respond to Toby. She said: 'Toby is more interested in seeing you turn your life around than in an apology. I suppose you've not got much money'. She then asked Alan to speak about what he thought the consequences of his action should be. He responded: 'I don't have a lot of ideas at all. I don't know how to make you feel better about not wanting the vehicle back'. He said he was sorry for what he had done. Alan's father then asked Toby how he would feel if Alan did some work for him, like gardening. Toby thought consideration should be given to the means by which Alan might re-establish a worthwhile place in the community and restore his dignity. 'This is an opportunity for you to come up with something, to do something to influence the judge.' Jean asked Alan how he thought he could influence the judge to believe that he was taking responsibility for turning his life around. Alan repeated that he didn't know how to do this. His father said that he helped around the house by cleaning up. Jean again asked 'what actions could show that to the judge and to Toby. Could you do some work?'. Michael then suggested that Alan write a letter of apology: 'that might do him some good'. Toby agreed. As a result, Alan agreed to write a letter of apology to Toby and to the company's shareholders and also to his mother, father, girlfriend and brother as they had all been affected by his actions. Jean added that Alan had shown real remorse today for his actions.

The discussion returned to reparation. Toby acknowledged that Alan didn't have the money, 'but I shouldn't let you off the hook. You still have to face the consequences. I want \$10,000 of inconvenience'. Toby felt that since five people had been involved in the offending, Alan should pay \$2,000, irrespective of the number actually charged with the offence. Michael said again 'he has time rather than money. Could he do something for you?'. Alan thought the judge was more likely to order him to pay half of the \$10,000 but agreed to this figure of \$2,000, reiterating his father's statement that 'I can really only offer time'.

They then discussed how this reparation could be paid as Alan already had fines which he paid at \$25 a week and he also contributed \$10 a week for his child. Toby stressed that Alan needed to get a job though he knew this would be difficult since Alan had a criminal record. He suggested that Alan approach employers and ask to work initially for nothing to prove that he was worth employing. He said 'invest your time by being honest and, whatever hours you work for nothing, \$15 per hour will be paid off the reparation'. Jean described this as 'an amazing offer. He's prepared to wipe off the debt if you work for free'. Alan agreed to this suggestion. Bob raised the question of how this would be monitored. Michael suggested that Alan could get an employer to write out his hours and give him a record of them, which he could then forward to Toby. Once he got paid employment, he could also write to Toby to let him know.

Jean then reminded participants that Alan was facing the possibility of prison and said that she was interested in people's ideas about this. 'How do each of you feel about this?' Michael responded: 'prison only makes people worse; it's never reformed anyone. Hopefully this [plan] will stop his reoffending. It's a brilliant idea'. Toby asked 'do I think society should punish you by sending you to jail? I'm not sure. I'm not privy to your record. It's not for me to comment on it. If you were my son, I wouldn't want you to. I don't think jail will help. If I could be a party to making sure that you turned your life around and stayed out of jail, that would be my preference as jail just delays the process of getting things on track'. Toby then added: 'But I recognise there also needs to be a deterrent'. Alan said that if the judge sentenced him to jail, he would accept it but he would prefer to stay out of jail and pay his debt to Toby. He expressed the hope that he would now be able to 'get on with it'. Alan's father thanked Toby for his generosity: 'you have been more considerate than most victims would have been'. Toby then said: 'you have a lifeline. You are the only one who can grab it'. Jean then thanked everyone and congratulated them on a productive and constructive conference. After almost two hours, this conference finished.

Peter's conference

About ten minutes later – and more than one and a half hours after the time scheduled – the second conference with Peter and his stepfather Paul began. Jean apologised for the delay and began the meeting as before, noting that Paul had had to cancel work. She reminded everyone of the previous meeting and the constructive attitudes shown. The participants introduced themselves. Jean once again explained the procedure and the fact that a report of agreements reached would be sent to the judge.

Next, Bob read the police Summary of Facts. Peter accepted that this was an accurate account. Jean then said to Peter: 'I'd like you to start the ball rolling. How did things happen that night?'. Peter acknowledged his part in the offences and provided details. He took full responsibility for entering and starting the car, advising that, after the vehicle got stuck, he felt remorseful. He had walked away from the others for about half an hour. He said when he returned the vehicle's windows had been smashed. When asked again why he committed the offence, Peter said: 'I don't really know why. It was a spur of the moment thing. It was stupid. It's not me'.

Toby described the consequences: he said that the car had been 'trashed' and he didn't want it back. He also referred to the financial losses to him, his family and his company, adding that it was unlikely that the insurance company would cover all the costs. Toby then stressed: 'if this meeting is constructive, then I'm happy to make that investment if it means that it will help you turn your life around. If my son gets into trouble someday, I hope that someone would give him this opportunity'.

Jean asked Paul to speak next. He said he was very disappointed in Peter and that this was his first offence. He also expressed concern about the length of time it had taken Peter to realise what he had done was wrong. He described the worry Peter had caused him and his mother. He added that he was disappointed when Peter discontinued an apprenticeship after completing one and a half years. More positively, Paul stressed that Peter had not started offending until recently, noting that he was now trying to turn his life around. Peter told them: 'I didn't think of the consequences, and all the people who would be involved, you [Toby], my mother and father'.

Jean then asked Peter how it had been for him since the offence. He said it had been hard with a curfew, especially trying to get a job. He added that people had seen his name in the paper and had changed their view of him: they didn't trust him anymore. Paul interrupted and said that he could get him a job tomorrow. He added 'we have had a good talk. He wants to work and play sport. But he's got to prove it. He knows what he's done is wrong. He either learns from it or he's a loser. If he doesn't take this on, there's not a lot of hope for him. Six months down the track is the telling point'.

Just then the conference was interrupted as, due to the late start of this conference, the conference room was booked for another meeting. Everyone, therefore, moved into another room nearby. Jean suggested taking a break at this point to give Peter and Paul the opportunity to see where they could go from here. Firstly however, she asked Toby what would mean most to him. Toby talked about reparation. He estimated the financial costs of the offending to be almost \$10,000. In addition, he mentioned the inconvenience caused to the family and to the shareholders of the company. But he added: 'It's not for me to say what the law will do. How you do that is up to you. Use this process to your best effort...a formal apology doesn't make me feel better or worse, but I'd like something in writing to me, the company, the shareholders, your mum and dad. This would help you understand what you've done to others'. Jean then repeated her suggestion of a break, adding, 'We also need to focus on how we move on from here'.

During the break, Peter, Paul and Bob talked together in the kitchen while Jean discussed with Toby the reasons why the other people involved in the offence were not charged and the differences between Peter and Alan: Peter was a first offender whereas Alan was a repeat offender; and Peter had started training as an electrician and could work with his dad whereas Alan had no job or training.

When the conference reconvened, Peter told Toby he had not realised the extent of the cost. He was happy to do anything he suggested. Toby then said he had just had a two-hour session with Alan. He had no doubt that they were from different backgrounds. 'It's your first offence...I see your potential. But I won't let you off the hook. You need to sort yourself out.' He then outlined what he considered as realistic outcomes. He suggested that the round figure estimate of \$10,000 should be split five ways and Peter accepted paying reparation of \$2,000. He agreed to pay this at \$100 a month as he could get casual work from his father. He also agreed to send a note to Toby with each payment telling him how his life was progressing. Toby also thought Peter should face the consequences the offending had had on him [Toby], on his family, on the company shareholders and on those around Peter. Peter agreed to write an apology to Toby and the company shareholders. At the conclusion of the conference, Peter offered an apology to Toby and this was accepted. Peter said 'this meeting is a wake-up call for me. I realise the stupid things I have done'. Paul then said 'I

think where did I go wrong? Maybe I didn't keep an eye on him enough. I knew he was in with a crowd of bad buggers and maybe I should have done something. You expect more at 20. Thanks for coming [Toby]. It's up to him to make his future'. Jean then thanked everyone for coming and for their thoughts. She apologised again for the inconvenience of the late start of the conference. She wished everyone well saying she was impressed with their positive attitudes. The latter parts of this conference were somewhat rushed as both the facilitator and the victim had appointments elsewhere.

After the conferences...

Alan felt nervous at the beginning of the conference but better and more confident as it progressed: 'the guy was OK'. He saw the purpose of the conference as getting the offender and victim to talk to each other, to let the victim know what had happened and to have a say. He thought these had been achieved to some extent. However he felt he had not explained why the offence happened adequately. 'I have problems expressing my feelings and the fact that I had done something to that person made it harder...There are probably things I should have said that I can think of now. For example, I should have apologised. He said he didn't want one, but maybe I should have...though it's only words.' Alan did not feel he had made up for what he did: 'I can't, but he gets something back and he wants to see me progress'. Overall, though, Alan was pretty satisfied with both the conference and the plan. He said, 'I'm glad I've done it. I feel I have achieved something'. He was impressed that Toby shook his hand at the end. He also felt others should have the opportunity to participate in conferences: 'it might stop reoffending'. He wasn't entirely sure it would stop him though: 'I certainly hope so...my kid and a job will make a difference...all this has made me quite depressed. But I did it to myself'.

Michael hoped the conference would help Alan face up to his offending. He said he felt a little apprehensive at the beginning of the conference, as he didn't know what was going to happen. He was pleased that Toby was so relaxed and not angry: 'that made things easier'. He described Toby as 'very reasonable and understanding, even though he had been inconvenienced by the offending'. He thought Toby made good suggestions and that they reached 'a pretty good conclusion'. He was also very impressed with the way the facilitator handled the conference.

Peter was worried at the beginning of the conference because he didn't know how the victim would react to him. But he felt quite good afterwards. He saw the purpose of the conference as benefiting him and also seeing what the victim's point of view was so that they could get an agreement about how to fix the situation. He felt the conference had made him realise what the victim went through. He also felt that the things he said had not always come across as he planned, but that he did get his point across. He was pretty satisfied with the outcome but went on to say that 'the victim deserved a lot more...he is giving us a chance to sort things out...not hitting us too hard...he's being very reasonable'. Overall, Peter felt everyone was keen to help him out to get on track and not 'treating me like scum'. Indeed, Peter said he was surprised the victim was so understanding – 'he didn't abuse or punish us'.

Paul went to the conference to support Peter and because 'it might help Peter not to reoffend'. He felt fine and had no difficulty meeting Toby. He thought it was good for Peter to meet and hear from the victim too. He said that he felt well prepared and was able to be as involved as he wanted to be: 'everyone was honest and it was easy to be there'. He described the conference as well run. However, he also described it as a 'bit repetitive' and felt that it 'dragged in places'. He said he liked the fact that Peter 'had to explain himself, his actions, and stand up and be accountable'. He added: 'it was good that the victim agreed to be there – it must have been hard for him'. Paul believed the facilitator had decided the details of the conference agreement but

that 'we all helped'. He described the plan as pretty much what they had expected: 'what we were told would happen at the conference happened'. Paul was happy with the plan and saw as a good feature the fact that Peter had been held accountable. He went on to describe the plan as 'more than fair. It gave Peter a goal to improve himself'.

Toby said he went to both conferences because he had children, wanted to understand why Alan and Peter had done what they did and then apply it to his own children. He felt pretty relaxed about the conferences and, at the end, said he didn't realise how people's background impacted on their lifestyle. 'It was an eye opener what some people go through. I explained everything later to my children.' He said that he felt most sympathy for both fathers. He felt Alan had made up for what he had done 'as best as he could...there was an aura of desperation around him as he had no money'. But he felt he had faced up to his offending 'and that's what the process is about'. With respect to Peter, Toby felt that he had had all the opportunities and had messed things up. He felt that money came easier to Peter and that he needed to pay for his debts.

Toby said that he was pretty satisfied with both of the plans but he went on: 'if that's all that happens, it's not punishment; no consequences'. Overall, he felt he had gained from the conferences and had a better understanding of both offenders. He said he would recommend conferences to others and that he would go to another conference. He also said that he was impressed by all the work that went into the conference.

Jean was quite satisfied with the way both the conferences went, describing them as 'productive' and 'constructive'. She believed it right to have them back-to-back, in accordance with Toby's wishes, and said that she would not have two offenders at one conference because of potential power imbalances, especially where there were no victim supporters present.

Jean felt that Alan had participated reasonably well but found it difficult to come up with ideas and put these into words. She did not feel that Toby saw himself as a 'victim' and believed he had attended the conferences because he felt that it was his civic duty. She thought Alan's conference was 'lengthy' but saw that this was due to the amount of care taken into helping turn Alan around. She described the outcome in Alan's case as 'creative'. Jean saw the father's presence as the crucial factor in the success of Peter's conference. She also said that she felt privileged to be part of Peter's conference. Jean saw the emphasis in both conferences, because of Toby not seeing himself as the victim, as being 'what to do to turn these boys around'. Overall, she was impressed with everyone's positive attitudes.

Bob said that he was conscious of the limits on time of having the two conferences back-to-back. However, he felt that this worked reasonably well in Alan's case, although he also felt that Alan's conference would have flowed more freely if there had been fewer restrictions on the time. Bob considered that Toby's input was particularly significant in Alan's conference, especially his idea that doing work experience for no pay would be counted towards the reparation. Bob did not rate Alan's conference as successful as Jean did, because of the time pressures.

Bob felt that having the conferences back-to-back worked less well in Peter's case. Peter and his father had been waiting a while and most of Toby's issues had been dealt with at the first conference. Toby seemed to want to get the second one over and done with, 'and the offender may have lost out by that. If there had been more time, the outcomes may have been different...He could have got a better outcome if the conference was allowed to follow the same methodical and detailed way the first conference had gone'. He added 'it felt more rushed towards the end...although probably the offender was pleased it didn't go on as long as the first one'. Bob also regretted that there was no time for de-briefing with Toby after the conference, as he wanted to go.

After the sentence...

In sentencing Alan, the judge commented that he was already on PD for similar offences and that he 'could easily justify sending you to prison'. He went on to refer to the restorative justice process having been 'fairly helpful' from the victim's point of view and to the fact that the victim would like to see Alan get back on track and not imprisoned. The judge then sentenced Alan to five months PD and six months supervision with a special condition to undertake an assessment and complete any counselling or programme as directed by the probation officer. He also ordered Alan to pay reparation of \$2000 as agreed to at the conference. The judge distinguished Peter from Alan, as he was a first offender. He also referred to the restorative justice process having been 'pretty positive' and to the outcome there as being one which the victim 'seems to be reasonably happy with in all the circumstances'. The judge sentenced Peter to six months PD (he was also charged with burglary and reckless driving) and to \$2000 for the unlawful taking of Toby's car (as well as \$3605 for the burglary).

Alan believed that the conference report 'got me out of jail' and viewed the judge's sentence as pretty fair: 'if you do the crime, you do the time'. Overall, he felt more positively about the criminal justice system as a result of participating. Michael also believed the sentence to be fair. 'It was important for Alan to realise what the impact of his offending was.'

Peter saw the judge's sentence as pretty fair (although he was a little unsure about this, as he had been sentenced on other charges too). However, overall, he felt more positively about the criminal justice system as a result of participating in the conference. He would recommend conferences to others and believed it would stop him offending in the future. Paul also felt that the sentence was fair, 'even a bit lenient'. He hoped Peter had learned from the whole experience.

Toby felt that the judge's sentences had taken his needs into account as he had ordered reparation and he had also added to them. He was not able to say whether or not the sentences were fair though he did say that it had taken into account the conference report. Overall, he felt more positively about the criminal justice system as a result of participating.

Jean had no views on Alan's sentence. She added that she understood supervision alone would not have been helpful. Prison would have been counter-productive. She was not sure why Peter received a slightly different sentence. She thought it was to do with them playing different roles in the offence. Bob described Alan's sentence as 'good' and Peter's as 'fair'.

Twelve months later...

Both Alan and Peter said they had not reoffended when interviewed. Alan still remembered the conference and said that the most important thing for him about the experience was the sense of what the offending had been like for the victim. He said that he was still paying the reparation and that his father was pushing him to make sure he paid it all. Alan felt the conference had had a role in him not reoffending, but also he was 'getting older, and thinking before acting'.

Alan's father felt the conference 'had done the trick' as he had not reoffended. 'He realised it was the end of the line for him...It's been a long road for the family, dealing with it over several years. I feel the matter has to be looked at reasonably. It's their actions we don't like, not them. The family can only do so much. Sometimes, you just have to wait it out. We did as much as we could. Then, it was up to him. What's the

alternative – kick him out of the house? That would make matters worse. The conference was a big turning point.'

Peter remembered the conference well and said that what he remembered most was 'meeting the victim and feeling like a scumbag'. Generally, he felt good about it and believed that the meeting had helped him change. It got me working and out of a rut.' Peter said he had also paid the reparation in full.

Paul felt, overall, that the conference plan and sentence had been 'more than fair to Peter' and added that he seemed to have learned from the experience, as he had not got into any more trouble.

Toby said the thing he remembered most about the conferences was the impact of the offending on the fathers – both were very upset. However, Toby was unsure about the impact of the conferences on Alan and Peter and maintained a distinction between them. He saw Alan as offending because of the type of person he was, but saw Peter as being 'OK' despite having offended. Twelve months after the conference, Toby gave the conference a lower satisfaction rating (the rate went from 6 to 4, on a 7 point satisfaction scale where 7 was 'very satisfied'). He disagreed that conferences were mainly designed for offenders, saying that the facilitator had ensured that he was able to express his feelings. Toby was still quite satisfied with the agreements reached at the conference. However, he did not recall any agreement about reparation with Alan and said that he had received only one payment from Peter. He assumed that the rest was being paid to the insurance company but he had no proof of this. Toby was also reasonably satisfied with the sentences.

Despite saying that he thought of the offence daily, Toby did not give the offence a particularly high rating in terms of its impact on him (3 out of 10 where 10 represented a 'very high impact'). He also said the offence was now all behind him, but did not attribute this to the restorative justice process: 'it was never much of an issue'. He continued to feel that restorative justice conferences had a place, but said that he was not sure whether or not this particular offence merited it. He thought that they might be more useful for personal offences. He said that whether or not he would recommend conferences to others would depend on the circumstances of the offence. This was the case, too, for his own involvement in future.

Case Study R

The offenders – Charles and Clinton – were cousins who lived near each other and shared a number of activities, including rugby league. They were 23 years old at the time of the offending; only a few months separated their birthdays. One evening, after celebrating a success on the rugby field, the boys entered the address of the victim – Lale – and his family, in a state of intoxication. Lale and his family were new immigrants. It was late at night and the family was asleep. While inside the house, Charles and Clinton moved a television set valued at \$600. They then opened the door of Lale's and his wife's bedroom. At this point, they were confronted by Lale who managed to apprehend Charles until the police arrived. The police later located Clinton in the garage of Charles's family. Initially, both Charles and Clinton were uncooperative with the police, providing no explanation for their behaviour. They were subsequently charged with burglary. Neither had previously appeared in court. Factors of particular interest in this case study are the relatively European nature of the restorative justice conference although both the victims and the offenders were Samoan; the victims' request to hold the conference at the home of one of the offenders; and the difference in the 'recovery' between the victim who attended the conference and the victim who did not. The facilitators were Annette (lead facilitator) and Mili (co-facilitator), a Samoan woman.

At the conference ...

Mili, upon collecting Lale and Sina for the conference learned that Sina was unable to attend, as she had to stay home with her two children who had come down with measles. She learned that the uncle could not attend either. Consequently Lale attended the conference on his own. Clinton attended with his mother, Janet, and Charles attended with his parents, Yvonne and James, who, of course, were also Clinton's aunt and uncle. James is also a Samoan elder.

Mili also translated for Lale, who spoke entirely in Samoan, and, like Annette, took notes. Because of Lale's body language (he would not look at the boys, he was clenching and unclenching his fist, his jaw was clenched and he was very stiff and tense), which the facilitators felt demonstrated the depth of his anger, they rearranged the seating so that both facilitators were seated near him.

After introductions, Annette thanked everyone for attending the conference and explained the ground rules. The police Summary of Facts was then read and agreed to. Charles spoke first and apologised immediately to Lale. He said that they had wanted to apologise straightaway, but that the court ruling did not allow it. He explained that they had been to a party for their rugby team's end of season game and had both drunk too much. He said that they were on their way to a friend's house who lived in the same street as Lale. Because they were drunk, they ended up entering the wrong house. The back door of Lale's house was open (as they expected their friend's house to be) and so they entered, still thinking it was their friend's house. Clinton reiterated the events of that night and said that what had happened was 'out of character'. He too apologised. Neither Charles nor Clinton were able to remember the details of what had happened but they both said that they would do whatever they could to put things right. Both also said that they had stopped drinking since the incident.

Lale was very angry when he spoke. He said he was so angry at the time of the offence that if Charles had not spoken to him in Samoan when he caught him he would have beaten him severely, if not fatally. Lale wanted to know who had entered his bedroom and why they had moved the TV. Both Charles and Clinton said that they were too drunk to remember. Lale went on to talk about the effects of the offence on his wife's health and said that she was scared to be left alone with the children. He added that his extended family were also angry about what happened.

Charles's father, James, then apologised for what had happened on behalf of the family reiterating that Charles and Clinton had made a mistake in entering Lale's house: 'they're not bad kids'. He said that he and his wife had searched for Lale's house to offer him a personal apology in accordance with Samoan culture, but were unable to find the correct address. James offered to pay for the costs of repairing the TV and of changing the locks. He asked for Lale's forgiveness. He wanted Lale to convey his apologies to his wife and children. Lale replied: 'love is first and foremost in our culture. I accept the apology. I am not angry any more'. He also said that he did not want any reparation from Charles and Clinton.

Janet, Clinton's mother, stood to address Lale and was very emotional. She too apologised and thanked Lale for forgiving Charles and Clinton and for accepting their apology. At this point, Charles, Clinton and their families became tearful. Janet then offered to do what they could as a family to help Lale and his family: 'if we could turn the clock back and make things right, we would. There was reason for this to happen. Once again, sorry'. Lale again said that he accepted the apology and that he was not angry any more.

The conference participants then took a break and shared refreshments provided by the offenders and their families. During this break, the parties also shook hands and embraced. After the break, the conversation turned to reparation and other outcomes.

Annette asked Lale what he felt needed to happen to relieve his wife's fear of the incident. At this point James requested an opportunity for he and his wife to visit and talk with Lale's wife. Lale did not agree to this. He said he would re-assure her, saying: 'I've seen with my own eyes and met the boys, and know that they are good boys, but were just too drunk that night'. Lale suggested that Charles and Clinton do community service or pay fines rather than imprisonment as they were both studying. He added that he did not want to endorse or actively suggest outcomes however. He left it entirely to Charles and Clinton and their families to make an offer.

They suggested that Charles and Clinton should cut Lale's lawn for a period of time and pay for or contribute to the costs of a new TV. They also said that they needed time to think about what they would like to do for Lale and his family. It was then agreed that Annette and Mili would contact the families in two days time to discuss outcomes further. Annette then thanked everyone for their participation and Clinton stood up and apologised to everyone. He again approached Lale and shook hands with him. He then embraced and apologised to his and Charles's family for the distress he and Charles had caused. Everyone then embraced and shook hands.

After the conference... the outcome

Annette and Mili spoke further with Charles and Clinton and their families about the outcome. They felt that paying for a new TV was too expensive since they were both students. Charles also had a partner and two small children. They decided to each contribute \$150 to Lale to use at his discretion. The facilitators agreed to collect this prior to sentencing. They also decided that cutting the lawn might put Lale's wife into an

uncomfortable situation and offered, instead, to do 40 hours community work, which they organised prior to sentencing. Lale was notified of this by the facilitators and said that he was happy with the decision. Subsequently, Lale told the facilitators that he was still concerned about his wife's health after the offence. He had invited James and Yvonne to his home to talk to his wife to help ease her anxieties over the incident.

After the conference... the interviews

Clinton said that he wanted to go to the conference 'to give someone in his position another chance, to give an explanation and to help other people'. Clinton said that he was asked by the facilitators to discuss with Charles how to prepare themselves to talk to the victim at the conference and to say sorry. He saw the conference as 'trying to achieve some conversation to the victims, for the accused to explain themselves and to give the victims peace of mind'. At the beginning of the conference, he felt pretty nervous; it was an uncomfortable situation' which, towards the end, 'warmed up a bit'. He felt 'kind of scared and nervous' about meeting Lale.

At the end of the conference, however, he felt much better and was satisfied that Lale was happy. 'He really got to talk to our family and see what we are really like.' Clinton was pleased to be able to explain what had happened that night. He described his feelings about the victim after the conference. 'I felt like he was someone, a stranger, after you talk to someone, you open up and get an understanding of the other. He seemed a wise, hardworking family man.'

He understood the conference to be beneficial to Lale, whose feelings, as Annette had reported them, had made him feel really unhappy. He was able to explain that the events of the night in question were not in his character: 'Not an everyday thing'. The conference process made him feel better. He thought that he and his family apologising to Lale had helped him feel better.

Clinton liked the way the facilitators handled the conference. 'There was no abuse. It was nice and calm. It was really just a good talk.' He felt he was treated fairly, and that, through giving the victim peace of mind, he had made up for what he had done. His apology was accepted. He gained some understanding of how the victims felt. 'He said they were pretty scared to move around the neighbourhood. They didn't feel secure anymore in their own house.'

Clinton felt ashamed of what he had done, but the conference process did not make him feel as though he was a really bad person. He had his uncle there to speak on his behalf, and, along with his uncle, his mother and aunty gave him support. Having them there made him feel comfortable and secure. The agreement reached completely satisfied him. Clinton felt the best thing about the conference was 'just talking'. On the whole, he was very satisfied with it. Taking part gave some peace of mind to the victim. It also gave them an opportunity to express their feelings and to say sorry. Of restorative justice conferences in general, he noted that they were good 'for people to discuss some situations and mistakes and misunderstandings, just so people can walk down the street and feel safe. They were good for people to see how the other people have been affected, and to stop affecting other people'.

Charles decided to attend the conference because he thought 'it would be good for both sides to be heard about why they thought we broke in and why we were all there.' According to him, the facilitators suggested that the conference process would give the victim a chance to get to know him and Clinton as people. He thought, therefore, that the conference was a chance for victims and offenders to meet, a chance for the victim to express his feelings, and a chance for the offenders to reply. He felt fine at the beginning of the conference. He looked

upon the victim as 'another person. I didn't look at him as anything less or anything more. I just pictured him as a family man, as someone I could relate to'. During the conference, he said he felt more for the victim, because he couldn't speak English. 'He was pretty nervous.' Charles was happy with the result and felt that Lale 'became less of a stranger and more of a real person, rather than a victim'.

Charles spoke a lot at the conference and said he understood fully what was happening. He felt he had the opportunity to say what he wanted to say, and to explain why the offence happened. 'I gave him some detail about what I was, that I wasn't a fulltime criminal, just drunk.' He felt he was treated fairly and with respect during the process and no one said too much. 'I felt like that I managed to explain myself and get rid of that discomfort, a feeling of a burden.' His apology was accepted and he now understood how the victim felt. He also felt ashamed of what he had done. Charles stated: 'Yeah I did actually, 'cos I like made the whole family feel scared. He'd come out to New Zealand to start a new life and the offence kind of spoiled it. And he's got kids like me'.

The conference process did not make Charles feel like a really bad person. His father spoke on his behalf, and his mother was also there to support him. They spoke a lot because the victim spoke fluent Samoan. The agreement reached between all of them was understood and satisfactory. It was partly better than he had expected, although he said that he did not really know what to expect. Charles had comments to make, however, about how Annette approached the issue of reparation. He said:

Cultural aspects need to be held in consideration. Some questions Annette asked were over the line, about money, and something made the victim feel uncomfortable. She could have been more diplomatic. Words in English are harder than in Samoan. In Samoan, these issues would have been dealt with more softly. It should have been Mili who led. For example, the victim talked about my parents in the same way he would have done to his own. Annette didn't seem to understand. Maybe Annette should have given these questions to Mili to ask in a culturally appropriate way.

Notwithstanding these concerns, he considered the plan was well structured and realistic. He was quite satisfied with the conference overall and was pleased that he had taken part. Charles, like his cousin valued the opportunity to talk to Lale.

Lale was interviewed using his wife as an interpreter. He said that he was motivated to go to the conference 'to show the guys the problem that he felt that night'. He thought the conference was held in order to show the boys his feelings. Speaking about how he felt at the beginning of the conference, he stated: 'I'm thinking like angry. For the first meeting, the first two minutes'. His anger was directed to the offenders. At the end of the conference, he said: 'I'm thinking – well and already the guys said sorry for that time. And I forget that problem'. As far as his feelings towards the offenders were concerned, at the end of the conference, he said: 'My heart is nothing bothering. OK, 100%'.

Lale felt involved because he was able to use his own language to explain how the offence affected him, and to say what he wanted to say. He did not feel too scared to say what he really felt during the conference. No one said too much, although Lale added: 'There's only me talking too much at the first two minutes – angry and fast'. He did not feel physically or emotionally unsafe at any time, and felt he was treated with respect. When asked if the offenders had been able to make up for what they had done, he commented: 'The boys made me, after meeting, say, okay'. He considered they were made accountable for their offending, and he accepted their apologies. He considered they understood how he felt and that they were really sorry. After the meeting, he said that he had gained a better understanding of why they committed the offence. 'I say, yes, I understand.'

According to Lale, his wife 'still have feelings' about the offence. Lale said he had wanted her to come but that it was not possible because of their children's illness.

According to Lale, an agreement was reached that Charles and Clinton pay the money for cutting the television wire. This was what he and his wife had decided should be in the agreement. He was satisfied with the plan. His wife commented: 'Money to pay for our fear. My husband has forgiven them'. However, Lale, in hindsight, felt the plan was too soft. 'I think in my country, this is cultural. I want new TV now, him to buy the TV and lock on the door.' To receive money for the television was something 'not all the family in Lale's country do', but his wife's family did. This was a cultural difference among Samoan people. His wife added: 'I want them to give money. This makes us unsafe in our own home'. Lale also said he was not satisfied with the answer given to him by the boys about why the wire was cut on his television and why things were on the floor. Although he felt more safe since the conference, his wife did not. His final comment was that he told the boys the fear his wife had, being at home since the offending. He did not tell them he wanted to move. He considered his emotional needs were partially met at the conference by the use of the Samoan language by the boys' parents. Otherwise, he said his wife had provided his emotional support, before and after the conference. Had his wife been able to be there, he would have felt his needs were met. When asked if he was pleased he had taken part, he replied: 'I want to take my wife to the meeting, but I am pleased for me'. He considered restorative justice conferences were a good idea.

Charles's mother and father both felt the victim was 'sort of aggressive' at the beginning of the conference. They were concerned that he might become violent, 'because we know some are'. But knowing where he was coming from, they knew they could 'handle it'. They added: 'we don't blame him'. It was very different at the end of the conference, because 'we have respect for each other. It was good'. They understood all that went on and felt that their son had had an opportunity to explain what had happened. Neither felt too scared to say what they felt. Yvonne stated: 'I'm the type to speak what's on my mind'. They felt that no one spoke too much and that they were treated with respect. They also said they felt ashamed of what Charles had done. Yvonne commented: 'I think it's disgusting. We weren't proud of it. I think Charles knows that'. Yvonne and James both agreed with the plan, and considered it better than what they'd expected. Mainly, it was good for both sides and was 'just right' in their opinion. Yvonne and James both thought the conference was a good thing. 'The conference start at the bottom – meeting the other side – especially for the young ones.'

Clinton's mother, Janet, described herself as 'feeling a little uncomfortable' at the beginning of the conference. Like the other family, she observed it was quite tense as the victim 'looked very angry'. His body language was 'a little bit scary'. But during the conference there was 'a whole turnaround'. She felt really good at the end of the meeting. She considered that Clinton had an opportunity to say what he wanted to say, and she said that she was not at all hesitant about saying what she felt. She was 'absolutely' ashamed of what Clinton had done. 'It was so out-of-character. The whole thing has been a huge learning curve for him. He's learnt to be accountable and not to have too much alcohol.' Most difficult for her to understand was the victim's statement that the boys had shifted the television 'when he's never stolen anything before'. She wondered if they had tripped over the cord and moved the television that way. She considered they had all contributed towards the plan though she thought the plan was rather soft: 'the boys wanted to give more, wanted to help Lale financially with the damage and relocking. I think that him not wanting anything was a cultural thing. He was still very proud. He wanted the apology more than anything else'. Janet, overall, was very satisfied with the conference and said she would certainly recommend it to others. She commented that the conference was great and that the facilitators had handled it really well. 'The Samoan facilitator helped Lale especially.'

Mili thought that, although Lale was 'pretty tense and angry', she had no fears he would 'lash out'. He was seated next to Charles's father. She described Lale's demeanour as angry but respectful. 'He needed to say what he had to say with the emotions he had at the moment.' She also felt that the parents of the offenders acted as support for Lale in the sense of having the same values. The one thing that stood out for Mili was the honesty of the boys about what had happened. 'It just felt really genuine. Too drunk to know they weren't at the same place.' At the end of the conference, she felt Lale had cooled down and, at an adult level, was able to talk, highlighting the Samoan culture as a way of resolving differences. Mili observed that Lale was comfortable speaking in Samoan and, despite his anger, was able to maintain his self-control at the conference.

Annette commented that, at first, when Charles and Clinton apologised to Lale and he refused to accept it, both facilitators wanted to hit him over the head! 'He was angry for at least an hour and the boys kept on apologising to him. Then James, Charles's father, said in Samoan: "My wife and I came looking for you to apologise". That really impacted on Lale. Charles and Clinton were very humble, telling him he was a very wise man, and that they'd learnt a lot from him. James reinforced how good the boys were usually. When Janet addressed Lale, she apologised and got really emotional. Yvonne hugged her, and there were tears. That turned Lale. He was a very difficult man.' Annette said that Mili thought this was due to pride, not culture. Annette continued: 'Yvonne went and sat beside Lale, and then they started to reminisce.... The conference was made difficult by Lale's pride and his slowness to acknowledge the gestures and apologies by the boys. He said he didn't want the boys to go to prison. He wanted to speak at sentencing.' Annette rated the conference pretty successful (giving it a rating of 7-8 out of 10) and added 'it could be higher than that at sentencing'. She noted: 'Clinton floored us and spoke directly to Lale. He apologised and said: "I've cut down (alcohol)." He then shook his hand and apologised to his aunty, uncle and mother. The boys' families had made a wonderful supper, and leftover sponge cakes and other food were sent home with Lale after the conference'.

After sentencing ...

Charles and Clinton were discharged without convictions. There are no sentencing notes in this case.

Clinton was very pleased with this outcome, and felt more positive about restorative justice conferences as a result. He had the following to say: 'It's pretty good, eh? It gives people a chance to explain themselves if they've done something stupid'. He said that participating in the conference would stop him offending again. Clinton's mother was definitely happy and said she wanted no changes in the judicial decision. She added: 'It's a great break for them. They've got so much ahead of them. It was worth all the time going back and forth. It was great'.

Charles thought the judge's decision was very fair. Although he said that he felt that the criminal justice system was 'really wrong', his impression became more positive as a result of the conference. He considered restorative justice conferences were worthwhile and would definitely recommend the process to others. He too thought that his participation in the conference would stop him offending again. Charles's mother thought her son's sentencing was 'okay' and his father's views mirrored those of his wife. They did not wish to add more.

Lale was not able to be contacted after the sentence. He and his family had moved house.

Mili's comment on the sentencing of Charles and Clinton was: 'I guess it's good for them. But, at the same time, I need to notify the victim. I have reservations about what the victim would think. He didn't want them to go to jail. The Samoan way is that, if there is genuine remorse and apologies, there's no need for it to go further'.

Annette was delighted with the result. 'Isn't that superb? I really do genuinely think there was nothing malicious or nasty.' She also said that Charles's parents, Yvonne and James, had visited Lale and Sina at their home. 'This meeting helped Sina to feel better. It gave credibility to the boys in the end, within their culture. They found out that Sina and Yvonne had come from the same village in Samoa.' She added that Lale and Sina had moved to be closer to their daughter's pre-school, as their car was unreliable.

Twelve months later...

Clinton recalled the conference immediately. He said that it was a bit tense in the beginning but remembered the communication they had had. He said that he was very satisfied with the conference overall and disagreed that they were designed primarily for offenders: 'it's not just for offenders; it's mainly for both parties, or more for the victims'. He did feel, however, the conference might have been better if it had been held on neutral territory. Clinton said he was very satisfied with the conference plan and he had completed all aspects of it. He was very satisfied with the judge's sentence. Clinton said that he had not reoffended and the conference had contributed to it: 'I really learned a lot seeing the victim'. As a result of the conference, Clinton felt better about the criminal justice system and described restorative justice conferences as 'a very good programme'. He would recommend them to others and would attend another if he reoffended, adding 'but I don't think that's likely'.

Charles also recalled the conference immediately: 'it was just well done'. He too said he was very satisfied with the conference overall and he did not see conferences as designed primarily for offenders or victims: 'it's dependant on the situation'. Charles said he was pretty satisfied with the conference plan and that he had completed all aspects of it. He was pretty satisfied with the judge's sentence. Charles said that he had not reoffended, but did not see the conference as having contributed to this. He described conferences generally as 'good'. He would both recommend them to others and attend himself if need be. However, he said that he felt much the same about the criminal justice system as before.

Lale could not be contacted for the follow-up interview.