



Victorian Association for Restorative Justice: Occasional Newsletter: December 2014

Welcome to another occasional newsletter from VARJ, the Victorian Association for Restorative Justice. VARJ was not an early adopter in the Twitter-sphere, but we do now have a Twitter [account](#). Meanwhile, though, members continue to find these newsletters helpful for their background information, even analysis, of tweeted and press-released restorative justice news.

VICTORIAN DEVELOPMENTS

The voters of Victoria elected a new state government at the end of November 2014. The new government may be open to constructive reform in the many areas affected by restorative practices. At the time of writing, in December 2014, it is not yet clear what those possibilities are. However, the previous Victorian Parliament enabled a significant expansion of restorative justice in youth affairs during its final round of legislating.

The Children, Youth and Families (Permanent Care and Other Matters) Bill 2014 amends the *Children, Youth and Families Act 2005* (the Act). The Bill strengthens pathways for young people into rehabilitation programs, with the aim of reducing re-offending rates. It expands the referral criteria for Youth Justice Group Conferencing (YJGC).

The 2005 legislation has allowed only those young people being considered for a *probation or youth supervision order* to be referred to YJGC. The new YJGC legislative amendments are most likely to be proclaimed in March 2015. The amendments stipulate that a young person, who is being considered for a Youth Attendance Order (YAO), Youth Residential Centre Order (YRCO) or Youth Justice Centre Order (YJCO), may also be eligible for a Youth Justice Group Conference. (Note: cases in the County and Supreme Courts of indictable offences involving young people under the age of eighteen remain ineligible for YJGC.) In essence, the legislative changes mean that *Group Conferences can be used to address more serious offences heard in the Children's Courts*.

Cases will need to be carefully reviewed to protect the wellbeing and safety of all YJGC participants, and ensure no further harm is done. Cases where a Group Conference is convened at a Youth Justice Centre (in the event that the young person is on remand) are likely to present challenges. There will be some logistical issues around access to the centre and the environment of conference room. Entering a custodial environment for the first time may be emotionally challenging for some participants. Nonetheless, the expansion of the YJGC is being viewed positively. It illustrates how widely Group Conferencing is now accepted as a suitable intervention even for very serious offences of youth offending.

REGIONAL EXEMPLAR: CENTRAL VICTORIA

The *Central Victorian Restorative Justice Alliance (CVRJA)* continues to provide impressive examples of collaboration among colleagues offering restorative practices across a range of programs. The Alliance has members from:

- CatholicCare Sandhurst, which provides Youth Justice Conferencing across the region;
- The Bendigo and District Aboriginal Co-operative, which has incorporated restorative principles within the organisation to address lateral violence in the workplace and local community;
- The Doxa School Bendigo and Catholic College, where staff have incorporated restorative practices and seen a positive impact on their school communities, especially for students with complex needs or problematic behavior;
- Neighbourhood Renewal Central Goldfields, whose members have identified restorative justice as a strategy in their action plan, and which has used the conferencing process to address the use of public space by young people;
- The Dispute Settlement Centre of Victoria, staff of which are trained in restorative justice and apply it in their publically-funded community facilitations;
- St Luke's Anglicare, which has used restorative principles in care-planning in the family services and mental health programs for clients with complex needs.

On 6 August 2014 the CVRJA, in partnership with the Loddon Campaspe Community Legal Centre, hosted a **Forum on restorative justice approaches** – with a particular focus on sexual offending and family violence. Rub Hulls explained the Centre for Innovative Justice's recent [report](#) on restorative responses to sexual offending, and David Moore explained how the Defence Abuse Response Taskforce's Restorative Engagement Program is having a positive impact on survivors of abuse, and on the current leadership of the Australian Defence Force. A panel discussion followed, with Carolyn Worth from the Centres Against Sexual Assault and Katrina Robinson, CatholicCare Sandhurst's Youth Justice Conferencing convenor.

Videos from the event are available [here](#).



A recent *CVRJA newsletter* provided **cases studies** of Group Conferencing facilitated by CVRJA members, including using Conferencing to support (i) a negotiation about post-custodial reintegration, and (ii) significant conflict resolution in a school community:

Case study 1: Prisoner/family conference (Dispute Settlement Centre)

A Group Conference was requested by the family of a prisoner, and was referred by the Community Legal Centre. It addressed concerns about the prisoner's release and his ongoing contact with community members. For the prisoner and for his family, there was as much anxiety and concern as there was anticipation about his impending release, and his return to the family. His siblings also had serious concerns for their father's safety, and wished to be involved in the conference. Unfortunately the Dispute Settlement Centre was unable to gain access to meet with the prisoner prior to the conference. The conference was not held until after his release. The conference facilitators provided an opportunity for each party to explain their understanding of the incident that led to the assault, and to address concerns about the safety of a young child. The prisoner apologised to his father for the assault. Family members expressed their love and support for him, despite what had occurred. Participants discussed plans for the future, and the facilitators offered a follow-up meeting if the family requested it.

Case study 2: School students

The Magistrates' Court ordered a Group Conference after Police had recommended an application for an Intervention Order. The Conference involved students, parents, and supporters from the school community. A school representative was brought in later in the session. A clear lesson was that more effective communication at an earlier stage between all the parties may have prevented the escalation of the conflict, and the associated stress and trauma. A broader overview of the work of the Loddon Mallee Justice Centre is available in their most recent [annual report](#).

OTHER STATES

A special [Koori Court](#), based on the model already operating in Victoria and the ACT, will be established in western Sydney. The Koori Youth Court will begin hearing cases in Parramatta from January 2015. It is hoped the Court can reduce the number of Indigenous young people being sent to prison.

Indigenous young people represent 60 per cent of inmates in the juvenile justice centres of New South Wales. Aboriginal offenders under 19 who have been found guilty of a crime at Parramatta Children's Court are eligible. An offender will have six months to comply with the plan before sentencing by a magistrate or judge. If the plan is breached, the matter may be referred back to the Children's Court for traditional sentencing. State Attorney-General Brad Hazzard said Koori courts could be established elsewhere in if the year-long Parramatta trial proved successful.

The presiding magistrate of the Koori Court has said the program is designed to establish a strong support network around the offender. The Koori Court process involves magistrates, elders and solicitors sitting at a table face-to-face with young offenders, with a Court Registrar convening. It is to be hoped that Registrars will receive adequate training in facilitating this process.

Elders will not contribute to sentencing decisions, but will advise the magistrate or judge on cultural issues relevant to the sentencing process and programs they think could help the young offender. The key dynamic here is that the court process is being made less formal, and more emphasis may be placed on doing things *for*, rather than *to*, a young person who has offended. The process as currently described does not envisage direct participation by a broader community of extended family and other supporters, nor by victims of crime. The possibility, and value, of having them contribute to

understanding the situation, and/or deciding how best to address it, may emerge from an adequate evaluation of the program.

For those interested in understanding this initiative in historical and national context, a useful starting point is the Chapter [11] on indigenous courts in *Non-Adversarial Justice*. A [revised edition](#) of this valuable book, by Magistrate Michael King with Professor Arie Freiberg, and Becky Batagol and Ross Hyams, of Monash University's Faculty of Law, was published in 2014.

NEW ZEALAND / AOTEAROA

The New Zealand government continues to support restorative justice to reduce re-offending and meet the needs of victims. Six government departments recently combined with a private trust to help fund a new [Chair in Restorative Justice](#) at Victoria University's School of Government, now occupied by Professor Chris Marshall.

Chris Marshall notes that New Zealand is sufficiently small and cohesive to enable academics, policymakers and practitioners readily to exchange ideas and collaborate on projects that can then be scaled up with relative ease and speed. Until recently, though, the country has lacked an academic centre dedicated to interdisciplinary research, teaching and policy development in restorative justice, and the Wellington University Chair changes that.

WORKPLACE

The second volume of Emeritus Professor Dennis Pearce's report into allegations of **workplace bullying at CSIRO** was released in 2014. Both volumes of the [Pearce Report](#) are highly relevant not solely to CSIRO, but to Australian workplaces in general.

A key recommendation of the first volume of the Report is that CSIRO transfer the obligation to pursue concerns about workplace bullying and other unreasonable behaviour from (i) the person affected by that behaviour to (ii) the Organisation. The report recommended that conduct issues in the workplace be approached in the same way as unsafe work practices or equipment. CSIRO staff are obliged to report unsafe practices or equipment and the Organisation is obliged to address these practices.

In response to this recommendation, CSIRO has now:

- reviewed and revised the procedural rules for dealing with misconduct and grievances; &
- integrated the procedure for dealing both with grievances and with misconduct into a single code.

The Pearce Report suggests that this approach "is unique in public sector management".

The new Misconduct Procedure obliges:

- members of CSIRO to report incidents of misconduct;
- these reports to be relayed to a Senior Manager;
- the Senior Manager to follow-up that report.

Managing misconduct no longer requires that the person affected make a formal complaint or lodge a grievance. It is anticipated that this should remove some of:

- the disincentive on staff to raise concerns with managers; &
- the concern that drawing attention to conduct issues may harm a person's career opportunities.

However, these disincentives and concerns will only really fade if the organisation manages a transition to a culture of mutual responsibility for proper treatment. The second volume of the Pearce Report urges CSIRO to:

- recognise and support the role of Human Resources as an essential part of the staff welfare management package;
- support Human Resources officers to bring misconduct to the attention of responsible officers

The report acknowledges the courage required for a manager to raise unpalatable issues of behaviour with a colleague - and particularly where the colleague concerned is senior in rank or scientific status. It also takes a set of teachable skills. Despite significant restructuring and budget cuts, the organisation has been attending to these reforms, including the question of how best to develop the requisite facilitation skills for managers and human resource staff.

GROUP CONFERENCE CONVENOR ACCREDITATION

The Victorian Association for Restorative Justice supports a national system of accreditation for restorative justice practitioners. A national accreditation system could benefit restorative justice practice in much the same way as a national system of mediation accreditation now benefits mediation practice.¹ VARJ has for some years been helping develop an accreditation system for RJ practitioners and programs across the state of Victoria. With further adjustments, this system could be extended nationally.

VARJ began drafting restorative justice standards and an accreditation protocol in 2008. In a 2009 report on its *Inquiry into ADR and Restorative Justice*, the Law Reform Committee of the Victorian Parliament (LRC) recommended that “the Victorian Government, in consultation with practitioners and the Victorian Association of Restorative Justice, should develop a list of core skills and attributes for practitioners.”²

A consultation process with VARJ members and agencies delivering restorative justice services informed a basic *Accreditation Scheme* and *Best Practice Standards*. The scheme and standards are consistent with the convenor training program which had been evolving since the early 1990s, and with which members of the VARJ committee had continuous experience.

The 2009 accreditation scheme was only ever envisaged as an interim arrangement. A small number of practitioners participated in an extended interview with a senior member of the VARJ committee about their experience and current practice. A more sophisticated and effective accreditation system has since been designed.

In a 2010 evaluation of Victoria’s Youth Justice Group Conferencing (YJGC) program, KPMG evaluated the YJGC program and found it to be effective and efficient, noting in particular the high standards of convenor skill and competence. However, the report warned that these standards would need to be

¹ National Alternative Dispute Resolution Advisory Council, *Legislating for Alternative Dispute Resolution: A Guide for Government Policy-Makers and Legal Drafters* (Canberra, November 2006): p. 57.

² Law Reform Committee, *Inquiry into Alternative Dispute Resolution and Restorative Justice*, Law Reform Committee, Parliamentary Paper No. 184, May 2009 at p. 307.

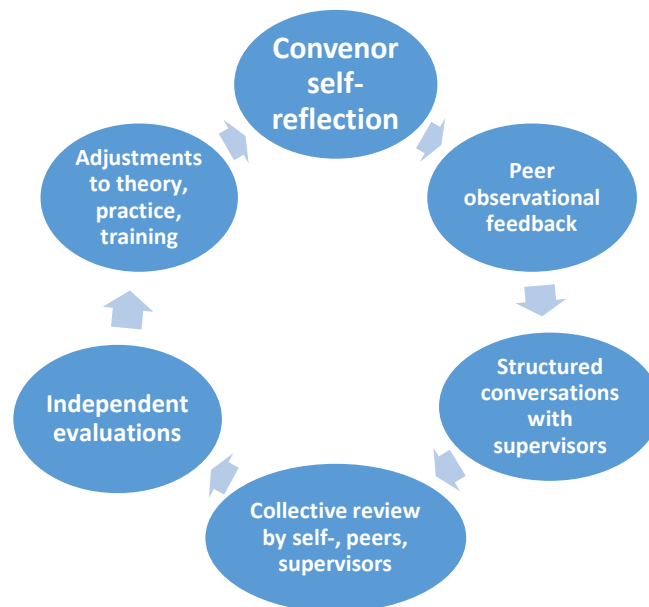
vigilantly maintained.³ KPMG made similar recommendations about accreditation to those made by the Parliamentary Law Reform Committee.

In May 2011, the Victorian government announced recurrent funding to consolidate and expand the YJGC program, including developing a system of convenor accreditation. A key principle was that training and development of each convenor should conclude with their formal accreditation. In response, the Department of Human Services commissioned an integrated system of convenor training, mentoring and accreditation.

A core activity of the resultant system is *effective peer mentoring*, whereby YJGC convenors provide observational feedback to each other:

- Initial convenor training encourages dialogue between theory and practice.
- This dialogue continues through the YJGC program.
- Convenors acquire, through training, peer support and review forums, a solid grasp of core concepts and skills - including the skill of observational feedback.
- A set of *templates* then provides a *structure* for *mentoring conversations* with fellow convenors and supervisors.

This integrated system produces a virtuous circle of reflective practice. Current knowledge is widely shared and consolidated. New knowledge is quickly reviewed and added to the sum of collective knowledge:



Templates provide a structure for mentoring conversations at the following stages of a convenor’s skill development:

³ *Review of the Youth Justice Conferencing Program: Final Evaluation*, KPMG, September 2010

1. A **TECHNIQUE-FOCUSED DISCUSSION TEMPLATE** is used to guide a conversation after a convenor has **observed a Group Conference** run by a more experienced convenor;
2. The same **TECHNIQUE-FOCUSED DISCUSSION TEMPLATE** is used to guide a conversation after a convenor has been **observed facilitating a Group Conference** by another convenor who has completed the Group Conference convenor training and mentoring process. This conversation should take place after the trainee convenor's first or second YJGC;
3. A **STRATEGY-FOCUSED TEMPLATE** is used to guide a conversation after a convenor has **been observed by a fellow accredited convenor or a senior convenor** running a **Group Conference** after at least ten **Group Conferences** or one year of practice – whichever comes first;
4. A **REFLECTIVE PRACTICE TEMPLATE** is used to guide a conversation between a convenor and a **supervisor** or assessor about the convenor's practice.

In late 2014, the state-wide advisory committee which oversees the Youth Justice Group Conferencing program approved this system, with one exception: YJGC convenors would be "*endorsed*", rather than "*accredited*" at the end of the learning process.

There are several reasons for this preference, but they have largely to do with the administrative and managerial arrangements of the Victorian YJGC program. The program is centrally administered by the Department of Human Services, Youth Justice and Disability Forensic unit. However, service delivery is contracted to regional NGOs. The Department and these NGOs now work together to deliver a system of YJGC convenor training, mentoring and *endorsement*.

This *endorsement* process is consistent with the recommendation made by the 2009 Parliamentary Law Reform Committee *Inquiry into ADR and Restorative Justice* for a list of core skills and attributes for practitioners. It is consistent with the recommendation of the 2010 evaluation of KPMG for a system that maintains the high standards of convenor skill and competence. So it meets the needs of program managers, service deliverers, and the end-users of Group Conferencing. Only one element of the original model is missing: external accreditation of convenors.

External accreditation has benefits beyond the scope of the YJGC program. It supports:

- the recognition and application of convenors' skills beyond the YJGC program;
- the growth of a body of skilled practitioners who can work across multiple programs;
- a common language and skill base of restorative justice practice;
- quality control of sole practitioners and of other Group Conferencing programs run by commercial or non-government organisations.

VARJ is now establishing a system of formal **convenor accreditation**, using the same system already used to achieve endorsement within the YJGC program. This means that:

- YJGC convenors can supplement their internal program *endorsement* with external *accreditation* with only a small amount of additional work;
- Other restorative justice group conferencing convenors undertaking either (i) a university-based Group Conferencing training course or an in-house training program consistent with best-practice standards can now structure their learning using the same system used by YJGC convenors, and concluding with accreditation;

- Accredited convenors should then be able to transfer common skills across Group conferencing programs;

To apply for Group Conference convenor accreditation, convenors will need to:

- complete an appropriate core competency Group Conference convenor training;
- prepare a written summary of each of four structured conversations.

This set of summarised structured conversations should then be submitted to VARJ. The written summaries will be reviewed by the VARJ accreditation sub-committee, who will provide written feedback. A member of the VARJ accreditation sub-committee will also conduct a face-to-face or phone interview with the applicant, to ensure the key criteria have been met.

This written and verbal advice from external restorative justice experts should add to each convenor's learning experience and support their ongoing development. The program as a whole should help ensure a consistent standard of Group Conference convenor skill and competence.

We are planning to have the Group Conference Facilitator accreditation program operational from early in 2015, and will update the [accreditation section](#) of the VARJ website as soon as possible.

SCHOOLS

In schools, as everywhere else, the political – media cycle tends to focus on what's easily measurable and loudly proclaimable – and this is a key reason for the growing passion of politicians for Naplan style testing of students.

A recent [article in the New York Review of Books](#) by Diane Ravlitch explains the recent origins of this concern to be top of international tables. Her analysis focusses mainly on the US and China, but is highly relevant to the politics of Australian Education.

There seems, meanwhile, to be a significant growth of interest among US educators for restorative practices. For example, the New York Department of Education's [Office of Safety and Youth Development](#) has been supporting schools to reduce their reliance on punitive discipline, and to sue restorative justice to provide teachers and students with multiple options for dealing with conflict.

Use of circles in schools reflects a change not only in what is taught, but how it is taught. Listeners to our beleaguered Radio National may have heard a [recent episode of This American Life](#) that highlighted these developments in US **schools**.

VICTIMS OF CRIME

Victoria has a Commissioner for Victims of Crime, Greg Davies. A representative of VARJ has had a very *positive* initial meeting with Mr Davies, briefing him on the role of VARJ, and the benefits of restorative justice for victims, and establishing the basis for a solid working relationship.

Meanwhile, the Victorian Law Reform Commission has a new reference on *Victims of Crime in the Criminal Trial Process*. There may be scope for the Commission to consider the role RJ can play, for example as a pre-sentencing option. The report is due in September 2016.

The Royal Commission into Institutional Responses to Child Sexual Abuse has announced it will make [recommendations about the provision of redress](#) by institutions to victims of child sexual abuse by mid-2015.

As we anticipated, the Defence Abuse Response Taskforce (DART) is likely to provide a ready-made model for this program of redress. In a [speech](#) delivered in Canberra for Blue Knot Day (24 October 2014), Justice Peter McClellan noted that a restorative engagement process should be a feature of any effective response scheme.

Our discussions with a broad range of institutions, survivor groups and Government confirm that everyone accepts that there should be an effective response available to all survivors. That response should include three fundamental elements. First, for those who wish it, there should be an opportunity to engage with the institution where they were abused, receive a meaningful apology and be otherwise supported in a spiritually and culturally appropriate manner.

The second need is for any survivor to have access to counselling or psychiatric care as they may need it during their lifetime. Currently both the limited availability of trained professionals with appropriate experience and the problems faced by many individuals in paying for their treatment mean that there is an obvious gap. The answer can only be found in a secure source of funds. By some means, funding must be found which ensures that professionals are available to keep people alive and otherwise provide them with the capacity to function effectively.

The third need of survivors is a lump sum payment which marks the abuse and recognises the failure of the institution to keep the person safe as a child.

Meanwhile, in late November, the **Defence Abuse Response Taskforce** tabled to the Australian Parliament two further reports, on [Abuse in Defence](#) and [abuse at the Australian Defence Force Academy](#). These reports accumulate complainant experiences and make recommendations regarding Royal Commissions.

Former Chief of Defence Chris Barrie recently talked to the ABC's [Lateline](#) program about the importance of addressing victim trauma, and specifically about the importance of the Restorative Engagement Program.

CONFERENCES

A [conference held in Belgium](#) in November highlighted the growing willingness for *Exploring the Potential for Restorative Justice for Sexual Violence*:

This and other areas of pioneering work in restorative practices will be discussed at the 2015 [Restorative Justice Conference to be held in Hobart](#) in March 2015:

DOCUMENTARY

A recent online documentary, *Beyond Right and Wrong: Stories of Justice and Forgiveness*, asks some very challenging questions: <http://beyondrightandwrong.com/>

In the stillness after conflict, after the blood dries and the screams fade, the memory of violence transforms survivors into prisoners of their own pain. How do whole societies recover from devastating conflict? Can survivors live—converse, smile, and even laugh—beside someone who blinded them, killed their parents, or murdered their children? Can victims and perpetrators work together to rebuild their lives? This life-changing documentary explores the intersections of justice and forgiveness as survivors heal from these tragedies.

Lekha Singh and her partner Kweku Mandela Amuah [spoke recently](#) with Richard Stubbs on 774 Melbourne about Singh's award-winning documentary.

FORTHCOMING VARJ ACTIVITIES

The VARJ Committee is planning a series of forums in 2015, bringing together colleagues interested in current developments in restorative justice. Note these dates. Details should be confirmed early in the new year:

Breaking New Ground: responding appropriately to clergy abuse: 13th March

Helen Last, of the *In Good Faith Foundation*, is planning a day-long forum to coincide with an important stage of the Royal Commission.

Constructive responses to conflict in the workplace: 16th April

David Moore is working with Deborah MacFarlane, the President of [VADR](#), the Victorian Association for Dispute Resolution, on this proposed evening panel presentation and discussion, looking at evolving policy and practice in response to workplace conflict.

School-based Social Justice & Relationship Development: 22nd July

Dave Vinegrad and Marg Armstrong, the VARJ committee's highly experienced Restorative Practices in education experts, are planning a one day conference for educators, with some exciting keynote addresses.

Common facilitation practices across different programs: 24th September

Alikki Vernon, who coordinates the Conflict Resolution program at La Trobe University, is planning this timely forum at La Trobe's city campus. Participants will examine the common features, and the differences, between various restorative processes currently being used around Australia, including Conferencing as used in education, justice and workplace, Family Led Decision-Making, and the Restorative Engagement Conference.

As always, please feel free to contact us with questions or suggestions:

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