

**AN EVALUATION OF  
YOUTH JUSTICE CONFERENCING FOR  
YOUTH MISUSE OF FIRE**

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## Abstract

Youth misuse of fire refers to any illegitimate use of fire or incendiary materials by a person under the age of 18 years. In New South Wales, tertiary prevention of youth misuse of fire is facilitated through a Memorandum of Understanding between Juvenile Justice New South Wales and Fire and Rescue New South Wales. This agreement provides the framework for firefighter participation in Youth Justice Conferencing convened for young people who commit fire-related offences. Despite being used for over a decade; Youth Justice Conferencing for youth misuse of fire is yet to be theoretically framed or empirically evaluated. The aim of this study was to partially fill this void. An evaluation was conducted to determine whether, and if so how, Youth Justice Conferencing with firefighter involvement facilitates youth misuse of fire prevention. This evaluation involved quantitative analyses of 10 years' worth of Youth Justice Conferencing record and recidivism data alongside qualitative analysis of semi-structured telephone interviews conducted with program practitioners. The findings indicate that, although there are some areas in need of improvement, Youth Justice Conferencing with firefighter involvement contributes to a reduction in the risk of general recidivism whilst providing an avenue through which firefighters can deliver fire safety education to members of the community who are most at-risk due to youth misuse of fire. Such findings may be employed by practitioners and researchers to verify and modify the program to ensure the continued relevance and efficacy of Youth Justice Conferencing for youth misuse of fire.

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## List of Abbreviations

AIC	Australian Institute of Criminology
ALP	Australian Labor Party
FBI	Federal Bureau of Investigation
CC-DRR	Child-centred disaster risk reduction
CEO	Chief Executive Officer
DPP	Director of Public Prosecutions
FRNSW	Fire and Rescue New South Wales
IFAP	Juvenile Intervention and Fire Awareness Program
JJNSW	Juvenile Justice New South Wales
MOU	Memorandum of Understanding
NSW	New South Wales
NSWRFS	New South Wales Rural Fire Service
NZ	New Zealand
UK	United Kingdom
UN	United Nations
US	United States
YJC	Youth Justice Conferencing
YMF	Youth Misuse of Fire
YOA	Young Offenders Act 1997 NSW
YOR 1997	Young Offenders Regulation 1997 NSW
YOR 2010	Young Offenders Regulation 2010 NSW
YOR 2016	Young Offenders Regulation 2016 NSW



## Statement of Original Authorship

The work contained in this thesis has not been previously submitted to meet requirements for an award at this or any other higher education institution. To the best of my knowledge and belief, the thesis contains no material previously published or written by another person except where due reference is made.

Signature: [QUT Verified Signature](#)

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# **Chapter 1: Introduction**

## **1.1. Introduction**

To begin, the term youth misuse of fire will be explicitly defined (section 1.2). The background of the research project will then be discussed. This will include an overview of the agreement between Juvenile Justice New South Wales and Fire and Rescue New South Wales that facilitates the tertiary prevention of youth misuse of fire (section 1.3). The void within existing literature pertaining to the tertiary prevention of youth misuse of fire will then be identified, followed by the need to utilise evidence-based practice and practice-based evidence to develop best practice guidelines (section 1.4). The methodology employed to fill this void will be outlined (section 1.5), followed by an explanation of the contribution that this research has the potential to make (section 1.6). It will be proposed that findings will enable an evaluation of the program as a mechanism which advances restorative justice, fire prevention, and child-centred disaster risk reduction principles. The chapter will conclude with an overview of the remaining chapters of the thesis (section 1.7).

## **1.2. Youth misuse of fire**

Misuse of fire by young people is a multifaceted problem concerning a highly complex and heterogeneous population (Martin, Bergen, Richardson, Roeger, & Allison, 2004). As a reflection of this complexity, existing literature utilises an array of terms to refer to the illegitimate use of fire and incendiary materials by young people. Terms are informed by the way in which psychologists, psychiatrists, sociologists, criminologists, emergency services personnel, and other authorities perceive, formulate, and address misuse of fire by young people. Such terminology delineates misuse of fire

by age, gender, aetiology, intent, motivation, pathological manifestation, legal distinction, and target. Yet, these terms are often undefined, imprecise, used interchangeably, and lack empirical evidence to support their theoretical demarcations (Lambie & Randell, 2011). In fact, empirical evidence has been derived which directly contradicts divisions of misuse of fire based on theoretical delineations such as age and motivation (Del Bove & MacKay, 2011). Categories employed within existing literature are therefore not discrete. Moreover, they lack the ability to account for movement between categories or the ranking of categories to generate a continuum of seriousness. To gain a greater insight into the array of categorisations and definitions which currently exist in the literature, a table of terms has been collated. Table 1 describes the differences, commonalities, and interchangeable nature of these terms.

To overcome the limitations inherent within existing literature; to consider the high degree of variability within the behaviour; and to conduct a thorough literature review; the term ‘youth misuse of fire’ (YMF) was devised. It is defined as any illegitimate use of fire or incendiary materials by a person under the age of 18 years. The term ‘illegitimate’ indicates that the fire was caused, or the incendiary materials were used, for non-sanctioned purposes. A similar term ‘youthful misuse of fire’ was advanced by Johnson, Beckenbach, and Kilbourne (2013), who suggested this term would soon replace ‘juvenile firesetting’ within clinical and forensic settings. Although the authors did not elaborate on the purpose or implications of this shift in terminology, it is suggested that a similar term be employed within criminological and community settings. YMF is preferred because it offers an overarching expression which identifies the actor (youth) and the behaviour (misuse of fire) without imposing qualifiers or assumptions upon either. The term is thus applicable to all forms of misuse of fire by young people (see Table 1 below).

**Table 1. Existing terminology**

Youth misuse of fire (YMF)							
Term	Fire interest	Fire play	Fire experimentation	Fire involvement	Firesetting	Arson	Pyromania
Synonyms	Fire curiosity Exploratory fire behaviour	Fire starting Match play	Fire lighting		Fire setting Fire setter		Impulsive incendiarism
Severity	Least severe					Most severe	
Psychological distinction	Non-pathological			Pathological or non-pathological			Pathological
Legal distinction	Non-criminal		Criminal or non-criminal			Criminal	
Defined as	A natural and inquisitive behaviour - Curiosity about fire - Accidental - Lack of fire knowledge - A universal trait in children - Committed by 3-5 year olds - Conducted by 5-10 year olds	An experimental behaviour - Arising out of curiosity and fascination - Accidental - Lack of fire knowledge - Committed by 6-9 year olds	Experimental - Opportunistic - Lack of fire knowledge - Unintentional - A universal trait in adolescents - Committed by 5-10 year olds	An umbrella term - Accidental and intentional	A broad term - Specification of intent not required - Impulsive and unusual - Intentional, malicious, premeditated - Unintentional, accidental, negligent - Frequent, severe and complex - Deviant - Committed by youths 10 years and over - Cognitive capacity to discern between safe	Well-known descriptive term which carries overtones of seriousness and condemnation - Intentionally starting a bushfire or causing the destruction or damage of property by means of fire - Property damage by means of fire or explosion, including arson and malicious damage by fire or explosion - Cognitive capacity to discern between safe and unsafe fire behaviour	A discrete impulse control disorder - Intentional and repeated fire setting accompanied by tension or arousal prior to fire setting, a fascination with fire, and enjoyment, satisfaction or relief associated with fire - The fire setting is not a manifestation of conduct disorder, mania, or anti-social personality disorder - Usually only applied to adults

					and unsafe fire behaviour	- Committed by a youth over the age of 10 years ( <i>doli incapax</i> 10-14 years)	
<b>Defined by</b>	Dolan et al., 2011; Gaynor, 1996; Haines, Lambie, & Seymour, 2006; Slavkin & Fineman, 2000	Dolan et al., 2011; FRNSW, 2014a; Gaynor, 1996; Merrick, Bowling, & Omar, 2013; NSWFB, 2009; Putnam & Kirkpatrick, 2005; Watt, Geritz, Hasan, Harden, & Doley, 2015; Willis, 2015	Glancy, Spiers, Pitt, & Dvoskin, 2003; Haines, Lambie, & Seymour, 2006;	Morris, 2014; Putnam & Kirkpatrick, 2005	Britt, 2011; Dolan et al., 2011; FRNSW 2014a; Gannon et al., 2013; Gaynor, 1996; Glancy et al., 2003; Merrick & Omar, 2014; Palmero, 2015; Putnam & Kirkpatrick, 2005; Slavkin & Fineman, 2000; Tanner, Hasking, & Martin, 2015; Watt et al., 2015	Anderson, 2004; Australian and New Zealand Standard Offence Classification 1211 (2011); <i>Crimes Act</i> 1900 (NSW); <i>Young Offenders Regulation</i> 2010 (NSW)	Diagnostic and Statistical Manual of Mental Disorders v5 (2014)

### 1.3. Background

Misuse of fire by young people is recognised around the world as a multifaceted, complex, and dangerous phenomenon (Martin et al., 2004). The high risk of property damage, injury, or death associated with this behaviour has led to the development of programs specifically designed to target young people who misuse fire. Due to the highly variable nature of YMF, the behaviour is difficult to predict and, due to motivational heterogeneity, unlikely to be deterred by punishment alone (Houvouras & Harvey, 2014). Instead, reduction of YMF relies heavily on multidisciplinary preventative initiatives (Bergeron, 2003; McDonald, 2010; Prins, 1994; Stadolnik, 2000). Despite historically and predominantly arising from the field of psychology, and the presence of a large body of literature evaluating YMF and YMF prevention from a psychological perspective (Chen, Arria, & Anthony, 2003), preventative initiatives are increasingly becoming the responsibility of fire services. Subsequently, there is a growing body of literature evaluating YMF programs implemented by fire services throughout the world (Haines, Lambie, & Seymour, 2006; Simpson, Wheatley, Brunsdon, & Hill, 2014). In Australia, Canada, New Zealand (NZ), the United Kingdom (UK), and the United States (US), fire services have placed increasing emphasis on the provision of mechanisms to facilitate YMF prevention (Haines et al., 2006). In New South Wales, s6 *Fire Brigades Act 1989* (NSW) states that it is the duty of the Commissioner to take all practicable measures for the prevention and suppression of fire. Consequently, Fire and Rescue New South Wales (FRNSW) are legislatively obligated to extinguish fires resulting from YMF, and to engage in activities which prevent YMF from occurring.

To better achieve these legislative obligations, FRNSW engage in primary, secondary, and tertiary forms of youth misuse of fire prevention. Primary prevention

occurs in the form of fire safety education, secondary prevention in the form of the Juvenile Intervention and Fire Awareness Program, and tertiary prevention in the form of Youth Justice Conferencing with firefighter involvement. To facilitate the tertiary prevention of youth misuse of fire, FRNSW developed an interagency agreement with Juvenile Justice New South Wales (JJNSW). This interagency agreement provides the framework for firefighter involvement in Youth Justice Conferencing convened for young people who commit fire-related offences. The objective of the program is to mitigate the risk and trauma associated with YMF by reducing the likelihood of re-offending (s6 Memorandum of Understanding (MoU), 2011). The program aims to achieve this through the use of firefighters who: provide age and offence specific fire safety education to the young person and their family (s6.1 MoU, 2011); suggest fire safety related tasks for the young person to complete as a component of their outcome plan (s8.3 MoU, 2011); and monitor these tasks to determine compliance and completion (s8.4 MoU, 2011). Such collaboration aims to educate the young person on the consequences of misuse of fire and teach them safe fire behaviours.

Youth Justice Conferencing for YMF is an extension of Youth Justice Conferencing. It thus exists as a restorative justice mechanism, “a process whereby all the parties with a stake in a particular offence come together to resolve collectively how to deal with the aftermath of the offence and its implications for the future” (Marshall, 1996, p. 37). However, Youth Justice Conferencing for YMF can also be defined as a tertiary prevention program. This is because the program aims to re-educate a young person who has come into contact with the criminal justice system for a fire-related offence to reduce the likelihood of future misuse of fire. Further, as a mechanism that aims to inform young people about fire risk and how risks related to fire can be managed, conferencing for YMF also sits within the realm of child-centred disaster risk



reduction. Youth Justice Conferencing for YMF is thus a restorative justice mechanism from a criminal justice perspective, a tertiary prevention program from a fire prevention perspective, and a process which reduces the risk of fire disaster from a child-centred disaster risk reduction perspective.

Overall state trends provide an indication of program utilisation in NSW since the inception of the interagency agreement in 2006, as displayed in Table 2.

Notwithstanding a lack of complete data, these statistics indicate a continued reliance on conferencing with firefighter involvement for young people who commit fire-related offences.

**Table 2. YMF and conferencing data for NSW**

Financial Year	YMF cases <sup>a</sup>	Juvenile arson offenders <sup>b</sup>	YJC <sup>c</sup>	YJC for YMF <sup>d</sup>	YJC for YMF with Firefighter <sup>e</sup>
2015-16	-	-	1,168	-	5
2014-15	-	90	1,085	-	9
2013-14	1,502	137	1,270	-	27
2012-13	2,360	158	1,290	-	4
2011-12	1,970	99	1,499	-	9
2010-11	1,897	113	1,637	-	13
2009-10	2,348	133	1,698	-	10
2008-09	2,519	118	-	-	10
2007-08	2,779	122	-	22	22
2006-07	3,125	148	-	27	10

<sup>a</sup>Pooley (2015), <sup>b</sup>BOCSAR (2016), <sup>c</sup>NSW Department of Attorney General and Justice Annual Reports (2009/10 – 2014/15), <sup>d</sup>NSW Attorney General's Department (2009), <sup>e</sup>FRNSW (2015b, 2016b)

#### 1.4. The void

Empirically-derived research findings are increasingly informing policy and program development, meaning heightened emphasis has been placed upon evidence-led policy and evidence-based practice (Fishwick & Bolitho, 2010). Evidence-based policy and practice is the product of scientific knowledge used to inform the development, implementation, and evaluation of policy and programs (Sexton, Gilman, & Johnson-Erickson, 2005). An evidence-base ensures that the highest quality, most reliable, and most effective services at any given time, are available (Sexton et al.,

2005). This emphasis aligns with provision 30 of the Beijing Rules (United Nations, 1985), which states that research should form the foundation upon which juvenile justice planning and policy is formulated. Murphy, McGinness, Balmaks, McDermott, & Corriea (2010) agreed that an evidence-based approach is required to evaluate the impact of practices which arise from policy development to determine effectiveness and to minimise the likelihood of negative outcomes. The importance of practice-based evidence is also emerging within research and policy arenas. Practice-based evidence derives from the perceptions, experiences, and expertise of stakeholders, such as practitioners and clients, of programs or services (Lieberman et al., 2010). Lieberman et al. (2010) stated that practice-based evidence should be reconciled with evidence-based practice to identify best practice.

Evidence derived from both practice-based and empirical investigations, within Australia and internationally, has led to the evaluation of primary forms of YMF prevention (Haines et al., 2006; Kendrick, Groom, Stewart, Watson, Mulvaney, & Casterton, 2007; Kennedy & Mason, 2015; Satyen, Barnett, & Sosa, 2004) and secondary forms of YMF prevention (Alder, Nunn, Northam, Lebnan, & Ross, 1994; French, 2007; Haines, et al. 2006; Kolko, 2001; Kolko, Herschell, & Scharf, 2006; McDonald, 2010). However, tertiary prevention of YMF is yet to be theoretically or empirically investigated. This is problematic considering a recent inquiry into fire season preparedness by the Environment and Planning Standing Committee found a pressing need to address the problem of fires caused by human intervention (Stanley, March, Read, & Ogloff, 2016). The Committee stated that there was an urgent need for research into misuse of fire prevention, particularly within Australia (Stanley et al., 2016). Further, despite an extensive body of literature evaluating diversionary conferencing in Australia and worldwide (Bolitho, 2012; Kim & Gerber, 2012; Miller &

Hefner, 2015; Moore, 2011a; Moore, 2011b; Moore, 2012; Murphy et al., 2010; Slater, Lambie, & McDowell, 2014; Smith & Weatherburn, 2012; Trimboli, 2000; Wagland, Blanch, & Moore, 2013; Webber, 2012), there is an absence of discourse pertaining to conferencing convened with firefighter involvement to tailor the intervention to YMF. Finally, there is evidence to suggest that restorative justice initiatives such as diversionary conferencing work in reducing recidivism in some offenders, but not others. As Sherman and Strang (2007) stated, restorative justice mechanisms need to be carefully tested in specific contexts before being deemed effective or even appropriate. Youth Justice Conferencing as a restorative justice mechanism has not been evaluated for its effect on fire-related offenders, nor has the inclusion of a firefighter within conferencing been evaluated for the effect this program adaptation has on process, outcomes, and impact.

Current policy and practice informing Youth Justice Conferencing for YMF has instead been informed by assumptions of effectiveness. These assumptions are informed by face validity - the program has been deemed theoretically logical and reasonable (Sexton et al., 2005). For example, it is theoretically logical to assume that the inclusion of a firefighter within conferencing will tailor the conference towards young people referred for fire-related offences, and that this offence specificity will improve outcomes by generating offence specific outcome plans and reducing offence specific recidivism. Assumptions of effectiveness are also informed by consensual validity - consensus within the literature (Sexton et al., 2005). For example, existing literature deems Youth Justice Conferencing a mechanism capable of effectively diverting offenders away from the criminal justice system and utilising restorative and reintegrative processes and practices to reduce the likelihood of re-offending. Despite the assumption that Youth Justice Conferencing with firefighter involvement facilitates YMF prevention (s6 MoU,

2011), an absence of empirical evidence, in an area where robust mechanisms exist for the development of evidence-based practice and practice-based evidence, exists in stark contrast to best practice. There is thus a need to conduct a comprehensive evaluation of Youth Justice Conferencing for YMF to provide a contextually-applicable evidence-base to inform program verification or modification.

### **1.5. Methodology**

Fritzon, Doley, and Clarke (2013) highlighted the importance of amassing evaluative evidence to determine what works best for people who misuse fire. The evaluative research conducted as part of this project will partially fill the void which currently exists within the literature. A theory approach logic model will provide the framework through which a research-oriented evaluation will be conducted. A retrospective study will be performed, sub-divided into two parts. The first part will involve quantitative analysis of conferencing records to investigate the fire-specificity of program factors, activities, and outputs. The second part will utilise re-offending data to quantitatively analyse categorical and continuous recidivism variables post-conferencing for YMF. Both retrospective components will compare differences in records and recidivism rates for conferences facilitated with and without firefighter involvement. Finally, an exploratory study will be performed. This study will collect qualitative data from semi-structured telephone interviews with program practitioners, including: program developers involved in the conception of conferencing for YMF; conference convenors who have convened conferences with firefighter involvement; program coordinators employed by FRNSW to administer firefighter involvement in conferencing; and local firefighters who have participated in conferences convened for young people who committed fire-related offences. The interviews will explore program

practitioners' perceptions of firefighter involvement in conferencing, whether firefighters influence program process, outcomes, and impact, and whether firefighters facilitate the prevention of YMF.

## **1.6. Contribution**

This research has the potential to contribute to existing literature by providing the first empirically-derived evidence base to inform program verification or modification. The retrospective components will involve empirical inquiry into conferencing for YMF, informing evidence-based practice. The exploratory component will analyse the perceptions and experiences of those directly involved in the implementation of the program, informing practice-based evidence. Collectively, the research will amass both evidence-based practice and practice-based evidence to ascertain if, and how, firefighter involvement influences Youth Justice Conferencing for YMF, and whether firefighter involvement in conferencing facilitates YMF prevention. Such findings will contribute to three distinct fields within existing literature: restorative justice, fire prevention, and child-centred disaster risk reduction.

The retrospective component of the study will analyse Youth Justice Conferencing record and recidivism data to ascertain whether firefighter involvement had a statistically significant effect on program process and outcomes. The exploratory component of the study will explore whether firefighter involvement influenced program process, outcomes, and impact according to program practitioner perspectives. These findings will contribute to restorative justice literature concerned with intra-conference differences and the effect these have on attaining restorative processes and outcomes.

The retrospective component of the study will also ascertain whether firefighter involvement in conferencing tailored the intervention to the offence and contributed to a reduction in YMF recidivism. When analysed in conjunction with the exploratory findings, the results will provide important information about the role that firefighters play within conferencing and the contribution they make to the prevention of YMF. These findings will contribute to fire prevention literature by elucidating ‘what works’ best in reducing YMF in young people who have been referred to Youth Justice Conferencing for a fire-related offence.

Finally, the exploratory component of the research will explore whether conferencing for YMF exists as a mechanism that has the potential to improve young people’s understanding of the risks posed by fire and potential impacts fire can have on their communities. These results will highlight whether Youth Justice Conferencing for YMF exists as a mechanism which advances child-centred disaster risk reduction. Such findings may contribute to child-centred disaster risk reduction literature pertaining to the management of fire risk.

## **1.7. Chapter overview**

This thesis has been divided into eleven chapters.

Chapter 2 will begin with an overview of the youth misuse of fire problem, followed by a brief description of the aetiology of the behaviour. Responses to youth misuse of fire will be described, followed by an overview of the primary, secondary, and tertiary prevention programs available within Australia. As the foundation upon which Youth Justice Conferencing for youth misuse of fire was developed, the historical and legal context of Youth Justice Conferencing within New South Wales will be explained. This will be followed by a description of Youth Justice Conferencing for

youth misuse of fire in New South Wales, with an overview of the legal, political, and socio-political context.

Chapter 3 will present a theoretical framework to inform and justify Youth Justice Conferencing for youth misuse of fire as a unique tertiary prevention initiative. This chapter will provide an explanation of the first of three theoretical frameworks - restorative justice. Two theories which explain the mechanisms operant in restorative justice, Braithwaite and Pettit's republican theory of criminal justice and Braithwaite's theory of reintegrative shaming, will be presented. The applicability of these theoretical frameworks will reiterate that conferencing for youth misuse of fire exists as a restorative justice mechanism.

Chapter 4 will present the remaining two theoretical frameworks informing Youth Justice Conferencing for youth misuse of fire. As a fire prevention initiative, the program will be explained and justified by social learning theory, as theorised by Sears and Bandura. As a risk reduction mechanism, conferencing for youth misuse of fire will be explained and justified from a child-centred disaster risk reduction perspective. It will be concluded that the frameworks of restorative justice, fire prevention, and risk reduction collectively provide a theoretical scaffold which explains and justifies conferencing for youth misuse of fire as a tertiary prevention initiative.

In Chapter 5, a literature review will provide an overview of the purpose of the Memorandum of Understanding between Juvenile Justice New South Wales and Fire and Rescue New South Wales. The role of the firefighter, how the program intends to reduce recidivism, and the purpose of fire-specific outcome plans will be discussed in line with existing literature. The literature review will reveal that the theory underpinning the program is imbued with assumptions which are not consistently

supported within existing literature. This void will be used to develop the research questions for this study.

In Chapter 6, the methodology will be outlined. By employing post-positivism, empirical evidence will be gathered using multiple methods to conduct an evaluation of conferencing for YMF. The evaluative research will be guided by the theory approach logic model, each phase of which will be addressed through retrospective and exploratory research designs. These two research designs will be outlined, with details pertaining to data collection, data analysis, and rationale. This will be followed by a discussion of the limitations of the study.

Chapter 7 will include results derived from part one of the retrospective component of the study. This chapter will present an analysis of de-identified Youth Justice Conference records pertaining to young people who committed a fire-related offence between 1 July 2006 and 30 June 2016, as maintained by Juvenile Justice New South Wales. Descriptive statistics will provide frequencies for all categorical or continuous variables within the data, which will be contextualised by existing literature. Chi square  $r \times c$  tests for independence will be conducted to determine if there were any statistically significant associations between firefighter involvement and the categorical variables present in the data. Mann-Whitney U (independent design) tests will be conducted to determine if there were any statistically significant differences in the continuous variables by firefighter involvement.

Chapter 8 will include results derived from part two of the retrospective component of the study. Recidivism data provided by the New South Wales Bureau of Crime Statistics and Research Re-Offending Database for all young people who participated in a conference for YMF between 1 July 2006 and 30 June 2016 will be analysed. Descriptive statistics will provide frequencies for all categorical or continuous



variables within the data, which will be contextualised by existing literature. Survival analysis will be employed to determine time to recidivism per year post-conferencing. This will be followed by comparative analyses to determine if there were any differences in categorical and continuous variables by firefighter involvement. Finally, cox proportional hazards regression will be used to test whether any of the fire-specific variables were covariates (predictors) of risk of recidivism.

In Chapter 9, the findings derived from the exploratory component of the study will be presented. The findings will be derived from semi-structured telephone interviews conducted with program practitioners between 1 April and 30 September 2016. To begin, the participant group will be described. This will be followed by an in-depth analysis of the eight major tensions identified within the data, as interpreted by the researcher: role fluidity; firefighter contribution; type of firefighter; preparation of firefighters; the punishment debate; firefighters in uniform; McDonaldisation; and manifestation of misuse of fire/perceptions of effectiveness. The interrelation of these tensions, and their implications for restorative justice, fire prevention, and child-centred disaster risk reduction, will be discussed.

In Chapter 10, the theory underpinning the program will be discussed in conjunction with the results from the retrospective and exploratory components of the study to address the research questions.

Chapter 11 will present the conclusion. The evidence derived from this study will conclude that firefighter involvement in Youth Justice Conferencing contributes to a reduction in the risk of general recidivism whilst providing fire safety education to members of the community who are most at-risk due to youth misuse of fire. However, areas in need of improvement will be identified alongside recommendations for best practice to improve the program's capacity to meet its benchmarks.

## **Chapter 2: Context**

### **2.1. Introduction**

The chapter will begin with an overview of the youth misuse of fire problem (section 2.2), followed by a brief description of the aetiology of the behaviour (section 2.3). Responses to youth misuse of fire will be described, followed by an overview of the primary, secondary, and tertiary prevention programs available within Australia (section 2.4). As the foundation upon which Youth Justice Conferencing for youth misuse of fire was developed, the historical and legal context of Youth Justice Conferencing within New South Wales will be explained (section 2.5). This will be followed by a description of Youth Justice Conferencing for youth misuse of fire in New South Wales, with an overview of the legal, political, and socio-political context (section 2.6).

### **2.2. The problem of youth misuse of fire**

Youth misuse of fire (YMF) is a covert behaviour, difficult to detect, solve, and empirically investigate. Nevertheless, existing statistics provide some insight into the scope of the YMF problem. According to the Australian Institute of Criminology (AIC) (2005), young people account for approximately three quarters of deliberately lit fires. A NSW based study revealed that, between 2001 and 2006, 23.4% of all arson defendants were under the age of 17 years (Muller, 2008). Although Muller's (2008) arson statistics reflect an over-representation of young people in offending generally, the research only considered YMF in its criminalised form, arson. Relying on official rates of arson is problematic because identification and conviction rates are estimated at four in 1,000 (0.004%), the lowest of any crime in almost every jurisdiction (Tomison,

2010). Research conducted by Bryant (2008) revealed that, of the 280,000 vegetation fires attended by 18 fire agencies throughout Australia over a five-year period, 24.0% were attributed to young people. NSW figures highlight that, between 1997/1998 and 2001/2002, young people accounted for 0.4% of all rural fires and 16.0% of all urban fires (Bryant, 2008). While these findings are significant, Bryant's (2008) study investigated vegetation fires only and excluded all non-vegetation fires as well as fires deemed suspicious. Pooley and Ferguson (2017) conducted a study of all fires attributed to young people as recorded by FRNSW and the NSW Rural Fire Service (NSWRFS). Findings revealed that, between July 2004 and June 2014, FRNSW and NSWRFS collectively responded to 419,736 fires, 26,380 (6.3%) of which were attributed to YMF. It is important to note that this figure is likely to be an under-representation because fire services differentiate YMF from incendiary or suspicious fires, despite the possibility these fires may also have been caused by a young person. Nevertheless, of the 26,380 cases of YMF identified, only 55.6% were vegetation fires (Pooley & Ferguson, 2017). The remaining 44.4% were rubbish, recreational, furniture/wares, apparel/linen, structural, and other fires (Pooley & Ferguson, 2017).

These figures are concerning considering evidence which indicates a dark figure of YMF exists. Tomison (2010) found that fires are only responded to, or investigated, when they cause personal or property damage. Bruenisholz, Delemont, and Ribaux (2015) suggested innumerable fires go undetected, and are thus never responded to, or investigated. Hardesty and Gayton (2002) stated that one quarter of all detected fires still go unreported. Of those fires detected, responded to, and investigated, a high proportion categorised as 'cause unknown' are likely to be the product of YMF (Bryant & Willis, 2006). Corcoran, Higgs, Brunson, Ware, and Norman (2007) found that fires which occur outdoors are reported more often than fires which occur indoors, while

Lowenstein (2003) suggested around half of all structure fires occur because of YMF. Existing literature thus provides limited insight into the magnitude of the YMF problem.

Self-report measures reveal higher rates of YMF given their relevance to the study of covert behaviour (MacKay, Feldberg, Ward, & Marton, 2012). In a study of self-reported YMF in a sample of 12-19 year olds from Queensland, Watt, Geritz, Hasan, Harden, and Doley (2015) found that 64.0% of a community-based sample and 91.3% of a young offender sample had engaged in some form of YMF in the past. Dadds and Fraser (2006) conducted a study of 1,359 4-9 year olds from Brisbane elementary schools. Primary care-giver reports revealed that only 5.4% of young people had a history of YMF (Dadds & Fraser, 2006). The high degree of variability between these prevalence studies is likely due to methodological differences. YMF is more prevalent in adolescent populations than child populations (Pooley & Ferguson, 2017), while self-report measures have the potential to reveal higher rates of covert behaviour (MacKay et al., 2012). Despite providing some insight into the scope of the YMF problem, both studies utilised samples from the Queensland population and the generalisability of these findings to the NSW population remains unknown.

Although the true prevalence of YMF within Australia, and NSW specifically, is undetermined, the behaviour is regarded as high risk. The AIC estimated that in 2011-12, there were 44,925 incidents of arson nation-wide, costing Australians approximately \$2.3 billion (Smith, Jorna, Sweeney, & Fuller, 2014). A cost analysis of the 25,369 cases of YMF identified by FRNSW between July 2004 and June 2014 indicated that YMF cost property owners a total of \$36,437,811 (Pooley, 2015). An incident outcome analysis of YMF recorded by both FRNSW and the NSWRFSS revealed that, because of the 26,380 instances of YMF committed between July 2004 and June 2014, 4,097 persons were evacuated, 414 persons suffered injury, 43 persons required rescue, and 10

fatalities occurred (Pooley, 2015). To add some context, the Bureau of Transport Economics (2001) found that, between 1967 and 1999, bushfires accounted for over half (57.0%) of the total injuries caused by disasters in Australia, while Ronan and Towers (2014) suggested that structure fire fatalities occur at seven times the rate of bushfire fatalities. Although these statistics highlight the scope of the YMF problem, a recent study conducted in Sweden found single data sources, such as fire service records or police databases, under-report fire injuries and fatalities by approximately 20.0% (Jonsson, Bergqvist, & Andersson, 2015). There is thus evidence to support a dark figure of YMF, meaning the behaviour is conceivably more problematic than existing literature portrays.

### **2.3. Aetiology of YMF**

Existing literature indicates that YMF is a multifactorial behaviour that manifests from an array of biological, psychological, and environmental origins. From a micro aetiological perspective, the literature can be divided into two main streams - YMF as a normal developmental behaviour and one which exists as a symptom of psychopathology. Debate surrounding the micro level correlates of YMF has shaped rhetoric and investigation of the behaviour since the 1800's (Nanayakkara, Ogloff, & Thomas, 2015).

#### **2.3.1. YMF as a symptom of psychopathology**

The earliest reference to misuse of fire within available literature can be found in Meckel's 1820 definition of 'impulsive incendiarism', a behaviour described as misuse of fire manifesting from mental disorder (Mehregany, 1993). This psychopathological approach to explaining misuse of fire permeated 19<sup>th</sup> and 20<sup>th</sup> Century literature,

propagated by seminal US and UK based psychiatrists such as Meckel, Jessen, and later Freud and Stekel (Horley & Bowlby, 2011; Mehregany, 1993; Stadolnik, 2000). Since this time, psychologists, psychoanalysts, and psychiatrists have utilised a medical model to explain YMF as a symptom of, but not limited to, disordered sexual development, schizophrenia, externalising (directed towards others and the environment) and internalising (directed towards oneself) problems, aggression, delusions, and limbic system dysfunction (Caudill, Diamond, Trulson, DeLisi, & Marquart, 2012; Heath, Hardesty, Goldfine, & Walker, 1983; MacKay et al. 2012; Mehregany, 1993; Morris, 2014; Repo & Virkkunen, 1997; Root, MacKay, Henderson, Del Bove, & Warling, 2008; Stadolnik, 2000; Stockburger & Omar, 2014). Despite a high degree of diagnostic heterogeneity within YMF populations, there is emerging consensus that YMF is a discrete behaviour with its own unique symptomology (American Psychiatric Association, 2014) and a strong and recurring correlate of antisociality (Huff, 2014; MacKay et al., 2012; McCarty & McMahon, 2005).

Although contributing significantly to an understanding of misuse of fire and its prevention, psychological/psychiatric research often discounts the influence of demographic factors such as age, gender, or socioeconomic status (Doley, 2003). This body of research also tends to rely upon small sample sizes, such as case study analysis, and samples of convenience, such as clinical or incarcerated populations (Mehregany, 1993; Stadolnik, 2000). Further, the correlation drawn between psychopathology and YMF may be spurious due to two factors. Young people who display problem behaviours may attract greater attention and thus be more visible. These young people are more likely to come into contact with the criminal justice system or the mental health system for YMF than young people who commit YMF but whose behaviour is less visible. Second, YMF committed by young people who exhibit behavioural

problems may be perceived as problematic, while YMF committed by young people who are generally pro-social may be perceived as normal and inquisitive. The perception of the actor, rather than the behaviour itself, may thus influence whether YMF is deemed problematic and requiring intervention. These factors may exacerbate the over-representation of psychopathological conditions in populations of young people studied within existing YMF literature. Despite strong evidence correlating YMF and psychopathology, it is important to recognise that there may also be a population of young people who commit YMF who are less visible because their behaviour does not co-occur with more complex behavioural problems.

### **2.3.2. YMF as a normal developmental behaviour**

There is evidence to support the proposition that YMF does not always co-occur with psychopathological dysfunction (Ducat & Ogloff, 2011). In fact, when analysing many previous studies, there is a significant proportion of each sample, whether clinical, incarcerated, or community-based, where psychopathological conditions are absent or insignificant (Britt, 2011; Lambie, Randell, Krynen, & Ioane, 2013; Mehregany, 1993; Repo & Virkkunen, 1997). YMF which does not co-occur with psychopathological dysfunction may exist as a normal developmental behaviour arising from the natural inquisitiveness of children or the desire of adolescents to experiment. Many researchers agree that an interest in fire is developmentally appropriate (Fessler, 2006; Peters & Freeman, 2016; Miller, 2005; Pinsonneault, 2002; Stadolnik, 2000).

YMF may exist as a normal developmental behaviour discrete from other developmental behaviours due to the presence of fire interest. Fire interest has been identified as a fire-specific risk factor which has the predictive capacity to discern between young people who misuse fire and young people who do not, and sub-

populations who misuse fire, regardless of other criminogenic or psychopathological commonalities (Morris, 2014; Watt et al., 2015). Existing literature also indicates that while fire interest predicts YMF, it may also sustain it (MacKay et al., 2006; Morris, 2014). If interest in, and curiosity surrounding, fire are strong predictors of YMF and its persistence, then normal developmental YMF is likely to co-occur with normal developmental fire interest (Gaynor, 1996; Fessler, 2006; Del Bove & MacKay, 2011; Pinsonneault, 2002).

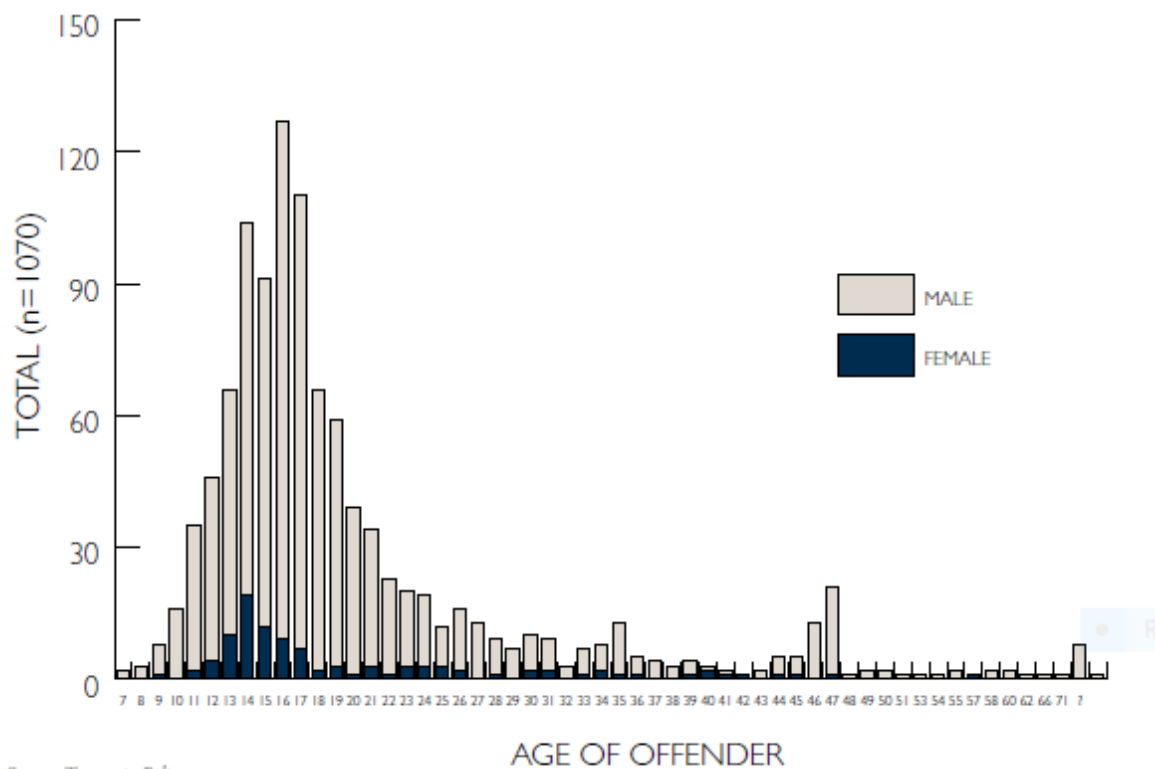
Although young people who misuse fire may be differentiated from young people who do not due to the presence or absence of fire interest, YMF is a developmental construct which reflects broader criminological findings consistent with the criminal careers framework and the age-crime curve. The criminal careers framework is a developmental criminology theory which explains youth offending. The criminal careers framework suggests that offending peaks in late adolescence, with a peak onset between the ages of eight and 14 years, and a peak desistance between the ages of 20 and 29 years (Allard, Chrzanowski, & Stewart, 2012). This proposition aligns with the age-crime curve, a graphical representation that depicts a rapid onset of offending which peaks in late adolescence followed by a rapid decline which diminishes into adulthood (Sweeton, Piquero, & Steinberg, 2013). The age-crime relationship has been consistently empirically supported within criminological literature where age is defined as a robust correlate of criminal behaviour (Barbot & Hunter, 2012; Collins, 2004; Moss, 2013; Richards & Lee, 2013; Stolzenberg & D'Alessio, 2008; Sweeton et al., 2013).

Existing literature demonstrates that YMF is a product of normal developmental behaviour with a peak onset between the ages of 10 to 14, and that young people who misuse fire do not generally do so in adulthood (Britt 2011; Del Bove, 2005;



Pinsonneault 2002; Stadolnik, 2000; Tomison, 2010). Raw data obtained from the Tasmania Police was analysed by the Tasmania Department of Justice (2011). When fire-related offences committed between 2005 and 2010 were plotted by age, results generated an age-crime curve predicted by the literature (see Figure 1). YMF, like youth offending generally, may therefore be explained as a function of the normal transition between childhood and adulthood.

**Figure 1. Age and sex of offenders who have committed fire-related offences**



Source: Tasmania Police

Source: Tasmania Department of Justice (2011).

The criminal careers framework also suggests that early age of onset predicts a longer criminal career (Allard et al., 2012). This notion is supported within YMF literature. Research consistently indicates that the younger YMF begins, the more likely it is to persist throughout a young person's childhood, adolescence, and

potentially into adulthood (Ducat, McEwan, & Ogloff, 2015; MacKay et al., 2012; McCardle, Lambie, & Barker-Collo, 2004; Long, Fitzgerald, & Hollin, 2015; Rice & Harris, 1991). Finally, the criminal careers framework states that a small proportion of offenders commit the majority of crime (Allard et al., 2012). Existing literature mirrors this notion. Although YMF accounts for a very small proportion of offences, young people are consistently over-represented within arson statistics (Lambie & Randell, 2011; Muller, 2008; Watt et al., 2015).

Both the age-crime curve and the criminal careers framework inform the concept that young people's involvement in crime is transient and self-limiting. This idea informed the development of youth justice legislation within Australia. During the second reading of the Youth Justice Bill 1997 (Tas), Mr Cleary stated that most people commit some form of offence during adolescence, a behaviour which is transitory and opportunistic, and which must be handled as such (Parliament of Tasmania, Legislative Council, October 2, 1997). This perception justified the implementation of diversionary mechanisms such as conferencing. Such perspectives assume that crime, and thus YMF, is primarily limited to childhood and adolescence. Although not applicable in all cases, or where YMF manifests as a symptom of psychopathology, misuse of fire is more prevalent within youth populations than adult populations (Hardesty & Gayton, 2002; Lowenstein, 2003; Williams, 2005). YMF may thus manifest as just one of many normal developmental behaviours that may be targeted through diversionary mechanisms such as Youth Justice Conferencing.

#### **2.4. Prevention of YMF**

Responses to YMF correspond with the two main aetiological routes to YMF identified within existing literature. Despite recognition that YMF may manifest as a

normal developmental behaviour, existing literature is predominantly concerned with YMF as a symptom of psychopathology. Consequently, much of the YMF prevention and intervention research has arisen from within the fields of psychology and psychiatry, utilising samples of clinical or incarcerated populations to empirically derive and evaluate treatment options (Dadds & Fraser, 2006). This vast body of literature has contributed substantially to: the development of classification systems (Del Bove, 2005; Del Bove & MacKay, 2011); the development of risk assessment tools (Binstock, 2000; Gallagher-Duffy, 2007; Gannon & Barrowcliffe, 2012; Humphreys & Kopet, 1996; Kolko, 2001; Kolko & Kazdin, 1989; Johnson, Fessler, Wilhelm, & Stepensky, 2015; Long, Banyard, Fulton, & Hollin, 2014; MacKay et al., 2006; Pinsonneault & Richardson, 1989; Sakheim & Osborn, 1994); evaluations of these tools (Burrows, 2013; Henderson, 2003; Long, Banyard, & Fulton, 2014); the development of treatment programs (Barreto, Boekamp, Armstrong, & Gillen, 2004; Bennett, Gamelli, Duchene, Atkocaitis, & Plunkett, 2004; Bergeron, 2003; Hillier, Cherukuru, & Sethi, 2015); and the evaluation of these programs (French, 2007; Henderson, MacKay, & Peterson-Badali, 2010; McDonald, 2010). Such literature indicates that, when YMF exists as a symptom of psychopathology, it is the psychopathological condition which is the primary target for intervention, not YMF (Fritzon, Dolan, Doley, & McEwan, 2011). Despite contributing significantly to an understanding of YMF and its prevention, such literature also recognises that more research is required to build an evidence-base to inform ‘what works’ for young people whose misuse of fire manifests as a symptom of psychopathology (Fritzon, Doley, & Clark, 2013).

A smaller body of literature which examines the normal developmental form of YMF within community samples also exists. Although predominantly arising out of the field of psychology (Chen et al., 2003; Dadds & Fraser, 2006; Del Bove et al., 2008;

Martin et al., 2004; Watt et al., 2015), a limited number of studies have investigated normal developmental YMF and its prevention from a criminological perspective (Ducat & Ogloff, 2011; Cozens & Christensen, 2011; Jonsson, Lundqvist, Gell & Andersson, 2017; Muller, 2008; Pooley & Ferguson, 2017). When YMF is a normal developmental behaviour, it is the misuse of fire which is the primary target for intervention (Fritzon et al., 2011). There are three types of prevention programs that have been specifically designed to target normal developmental YMF.

#### **2.4.1. Primary prevention**

Primary prevention aims to avoid an undesirable event by reducing the likelihood of it occurring in the first place (McKenzie & Seabert, 2008). Fire safety education is a form of primary prevention as it aims to reduce the likelihood of YMF occurring within the youth population. Fire safety education programs are implemented to reduce both the likelihood of a fire accident occurring and the consequences associated with fire (Satyen et al., 2004). Fire safety education sessions are run by local firefighters in most jurisdictions in Australia. The delivery of fire safety education relies on collaboration between State education departments and fire services, mainly due to an absence of mandatory fire education in the school curriculum. For example, FRNSW collaborates with the NSW Department of Education and Communities to deliver fire safety education to young people in NSW. FRNSW provides programs for pre-school aged children (Pre-Ed), children in primary school years 1 and 2 (FireEd1), and children in primary school years 5 and 6 (FireEd2) (FRNSW, 2014a). Each program has been developed to meet the relevant learning outcomes of the NSW Board of Studies Personal Development, Health, and Physical Education syllabus and includes topics such as: the difference between safe and unsafe fires, the importance of home fire

escape plans, and fire safety procedures such as what to do with matches and lighters (FRNSW, 2010). Program differentiation based on age aligns with developmental theories which indicate that fire safety education programs need to be specifically tailored towards a child's level of cognitive development (Satyen et al., 2004, p. 342).

Although fire safety education programs are considered vital to preventing and reducing the dangers and trauma associated with YMF (FRNSW, 2014b, para. 1), there is an absence of research to date which has evaluated the efficacy of the fire safety education curriculum in NSW. Nevertheless, evaluative research has been conducted on primary prevention programs implemented in Victoria (McDonald, 2010; Satyen et al., 2004), the UK (Kennedy & Mason, 2015; Kendrick et al., 2007) and the US (Cole, Crandall & Kourofsky, 2004; Dougherty et al., 2007). Further, research is currently being conducted by proponents of child-centred disaster risk reduction, findings from which may be used to inform fire safety education curriculum development nation-wide (Towers, Haynes, Sewell, Bailie, & Cross, 2014). Fire safety education which targets normal developmental misuse of fire exists as the first line of defence against normal developmental YMF.

#### **2.4.2. Secondary prevention**

Secondary prevention, or intervention, refers to early detection and treatment to reduce the likelihood of an undesirable event manifesting into a more severe, advanced form (McKenzie & Seabert, 2008). Secondary prevention of YMF was first implemented in Australia in 1988 in response to high numbers of fires lit by young people and, subsequently, a high number of burns unit admissions (McDonald, 2010). The Juvenile Fire Awareness and Intervention Program was developed by the Victorian Metropolitan Fire Brigade in consultation with the Royal Children's Hospital Mental

Health Unit, Melbourne. The model was based on the United States Federal Emergency Management Agency approach to youth fire intervention, and gained state-wide capacity in 1992 when Victoria's Country Fire Authority joined the initiative (McDonald, 2010). This program provided the impetus and foundation upon which YMF secondary prevention programs were implemented within all other Australian jurisdictions. There are currently seven YMF intervention programs available within Australia: Juvenile Fire Awareness and Intervention Program offered in the Australian Capital Territory, Northern Territory, and Victoria; Juvenile Fire Lighters Intervention Program presented in South Australia and Tasmania; Juvenile Intervention and Fire Awareness Program available in New South Wales; and Juvenile Family and Fire Awareness Program offered in Western Australia. These programs are managed by each jurisdiction's fire service.

Secondary prevention programs employ trained career firefighters to deliver fire safety education within the home of a young person who has been identified as at-risk of YMF. Given the variability and complexity of YMF, most programs are flexible in nature, allowing firefighters to adapt the program to suit the age, maturity, and fire-specific behaviours of the individual. Sessions vary from 15 minutes to three hours in duration and are available as a one-off intervention or as part of a series of sessions. Sessions generally commence with an interview with the young person and their parents/guardians, and an assessment of their fire safety knowledge (McDonald, 2010). The outcome of this assessment informs the type of educational activities implemented, most of which focus on the consequences of unsafe fire use and how to implement safe fire behaviour (McDonald, 2010). A home fire safety audit which includes the development of a home fire escape plan and information on smoke alarm maintenance is also performed. Most sessions conclude with the provision of homework exercises to

be completed by both the young person and their family (McDonald, 2010). Fire safety education programs encourage the development of fire safety agreements made between the young person and their parents/guardians which establish a mutually agreed upon reward system for compliant behaviour (McDonald, 2010). Although the evaluation of NSW-based programs is lacking, secondary prevention programs have been evaluated more so than any other form, both within Australia and world-wide (Alder et al., 1994; French, 2007; Haines, et al. 2006; Kolko, 2001; Kolko et al., 2006; Lambie, Seymour, & Popaduk, 2012; McDonald, 2010). Evaluations have revealed that YMF intervention programs are central to changing fire-specific behaviours in young people and their parents/guardians, but only for low risk, non-pathological misusers of fire (McDonald, 2010). YMF intervention thus exists as the second line of defence against normal developmental YMF.

### **2.4.3. Tertiary prevention**

Tertiary prevention, or treatment, is implemented after an undesirable event has occurred and aims to re-educate and rehabilitate to avoid a re-occurrence of the event (McKenzie & Seabert, 2008). The Victorian Bushfires Royal Commission (Parliament of Victoria, 2009) referred to tertiary prevention as a means through which to prevent fire-related re-offending in individuals who come into contact with the criminal justice system. Stanley and Kestin (2010) promoted the use of alternative forms of criminal justice intervention to advance the bushfire arson prevention agenda. The researchers listed restorative justice conferences as a tertiary prevention initiative which had the potential to reduce misuse of fire recidivism (Stanley & Kestin, 2010). The tertiary prevention of YMF thus refers to juvenile justice system intervention which is fire-specific. Here, young people who are apprehended, and who subsequently admit guilt,

for a fire-related offence can be referred to Youth Justice Conferencing convened with firefighter involvement. This approach aims to reduce the likelihood of YMF re-occurring.

Youth Justice Conferencing is especially applicable to youth misuse of fire which occurs as a normal developmental behaviour. This is because both conferencing and normal developmental YMF are informed by the concept that criminal or deviant behaviour is transitory. This concept, represented by the age-crime curve, informed the development of the *Young Offenders Act 1997* (NSW) which legislated Youth Justice Conferencing as a formal diversionary mechanism in NSW (Parliament of NSW, Legislative Assembly, June 18, 1997, p. 10474). Conferencing as a diversionary mechanism provides a means through which a young person can be diverted from criminogenic state intervention towards a minimalist option to facilitate natural desistance from crime. The applicability of conferencing to YMF is therefore theoretically valid. However, despite a growing body of Australian-based and international literature evaluating primary and secondary forms of YMF prevention, tertiary prevention, or conferencing for YMF, is yet to be theoretically analysed or empirically investigated in any jurisdiction.

## **2.5. Youth Justice Conferencing**

Youth Justice Conferencing forms the foundation upon which conferencing for YMF was developed. Thus, a brief overview of the historical and legal context of conferencing has been provided.



### **2.5.1. Historical context**

Like most diversionary conferencing models in Australia and around the world, NSW's Youth Justice Conferencing approach is based on the New Zealand Family Group Conferencing model. New Zealand was the first common law country to implement group conferencing, a model derived from traditional whānau decision-making (Slater et al., 2014). Whānau, a social construct embedded within Māori culture, is akin to an extended family (Tūpara, 2009). Whānau decision-making is a collective activity involving members of a whānau where emphasis is placed upon a collaborative and meaningful process rather than outcomes (Tūpara, 2009). Tikanga o nga hara, the Māori law of wrongdoing, is founded upon collective responsibility for offending and reparation. In general terms, it states that offending is the product of social and familial imbalances, and that such imbalances need to be addressed collectively (Maxwell & Morris, 2006, p. 244). Redress is also collective, where reparation is paid to the victim and their whānau. This indigenous Māori system emphasised victim inclusion, mediation, restitution, and compensation, rather than retribution (Morris, 2004). The objective was to meet the expectations of all stakeholders and to restore balance rather than to merely punish the offender (Morris, 2004, p. 245). Brathwaite (1992a) stated that this constructive, deliberative process helps the offender to re-emerge from the offence as a law-abiding citizen.

This indigenous system of justice was replaced during the era of colonisation. It was not until the 21<sup>st</sup> century that vast changes in the socio-legal landscape, instigated by recognition of the limitations of the justice and welfare models, provided an avenue for renewed rhetoric about traditional, indigenous systems of justice. In the 1970s and 80s, meetings of family groups for family therapy sessions were arranged to address child welfare issues (Maxwell, Morris, & Hayes, 2008). In 1986, the Department of

Social Welfare published a Ministerial Advisory Committee report 'Pua Te Ata Tu' (Daybreak) recommending more culturally appropriate mechanisms for handling of Māori juvenile offenders (Morris, 2004, p. 256). A report to the Department of Justice 'He Whaipanga Hou' (The Māori in the Criminal Justice System: A New Perspective) published in 1987/8 highlighted institutional racism within the NZ criminal justice system. In response to these reports, and NZ's adoption of the United Nations (UN) Convention on the Rights of the Child (1989), elements of the Māori tradition were fused within the broader construct of western ideals within the *Children, Young Persons and Their Families Act* 1989. This Act legislated culturally sensitive mechanisms, such as Family Group Conferencing, to address youth offending and child welfare issues, among other matters. Family Group Conferencing instilled power within the offender's family, over and above that of legal practitioners or social workers. This power drew upon the collective responsibility of the whānau to apply culturally and individually appropriate decisions. Hayes and Daly (2003, p. 780) suggested these decisions would alter the young offender's behaviour because their family's opinions and perspective were central to the decisions made.

Alongside the development and geographical expansion of the NZ Family Group Conferencing model, Australia was engaging in youth justice rhetoric in reaction to the Royal Commission into Aboriginal Deaths in Custody (Austl., 1998), and inspired by UN policies and conventions. The Royal Commission into Aboriginal Deaths in Custody made 339 recommendations including the need to reduce the rate at which Indigenous young people were separated from their families and communities and were involved in the criminal justice system (Austl., 1998). Emphasis was placed on diversion from police custody and the use of imprisonment as a last resort (Austl., 1998). The UN Standard Minimum Rules for the Administration of Juvenile Justice

(The Beijing Rules), established in 1985, set out principles and practices for the administration of justice for juveniles with emphasis placed upon protecting their fundamental human rights. The UN Convention on the Rights of the Child (CROC), established and signed by Australia in 1989, set out eleven principles to guide the sentencing of young offenders. These principles include that the best interests of the child should be the primary consideration, that a child should be given the opportunity to express their views in all matters affecting them, and that detention should be used as a measure of last resort. Further, the UN Rules for the Protection of Juveniles Deprived of their Liberty were adopted by the UN General Assembly on 14 December 1990. The principles state that imprisonment should be used as a last resort for juvenile offenders and that juveniles should only be deprived of their liberty in accordance with the Beijing Rules. On the same date, the UN Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines) were adopted and proclaimed. The Riyadh Guidelines emphasise the importance of prevention of juvenile delinquency through investment in mechanisms which facilitate successful socialisation and integration (United Nations, 1990, p. 721-722).

In addition to, and inspired by, these international policies and conventions, state specific reviews and reports emerged which criticised the existing juvenile justice systems in most Australian jurisdictions. In NSW, these included the NSW Youth Justice Coalition report 'Kids in Justice: A Blueprint for the 90's' (1990). The Juvenile Justice Advisory Council Green Paper 'Future Directions for Juvenile Justice in New South Wales' (1993) was thereafter produced, and was the first to introduce the concept of restorative justice (Murphy et al., 2010, para. 33). The Green Paper highlighted the importance of the recognition of the rights of the young person, differential treatment and diversionary mechanisms to deal with young offenders, and the use of formal

intervention via detention as a last resort (Fishwick & Bolitho, 2010, p. 172). The White Paper 'Breaking the Crime Cycle: New Directions in Juvenile Justice in NSW' (1994) implemented many of the recommendations made by the Green Paper, including the development of a Charter of Principles for Juvenile Justice in NSW. This Charter emphasised the importance of juvenile justice program and policy compliance with UN rules and conventions.

Out of this context arose police-led conferencing, first introduced in Wagga Wagga, NSW, in 1991 (Australian Law Reform Commission (ALRC), 1997, para. 18.46). This pilot model arose under the context of community policing and involved police-led conferencing for minor matters referred by police only (Umbreit & Armour, 2011). The Wagga Wagga model differs from the NZ model in several ways. The Wagga Wagga model is an incident and victim centred approach as opposed to the offender focused approach of the NZ model (Braithwaite, 1992a). However, the NZ model places more emphasis on families in the decision-making process (Prichard, 2004). Many theorists have proposed that the Wagga Wagga model focuses more on restoration between the parties and reintegrative shaming (Maxwell & Hayes, 2006; Umbreit & Armour, 2011). In fact, Braithwaite (1992a) suggested that the police-led approach is more reintegrative than the NZ model as it places the emphasis on the offence and its ramifications, enabling the denunciation of the behaviour rather than the person. Despite contributing to the utilisation of conferencing in other Australian jurisdictions, growing controversy over the police-led model developed because of concerns that police were not perceived as independent facilitators by offenders or victims, and were not perceived as members of the young person's community (Umbreit & Armour, 2011). Further, police facilitation was thought to increase the likelihood of shaming which stigmatises rather than that which is reintegrative (Umbreit & Armour,

2011). Consequently, in 1995, the NSW Government provided funding to transfer the jurisdiction of the management of conferences to Community Justice Centres (Umbreit & Armour, 2011). By 1996, discourse informing policy development moved away from the Wagga Wagga model towards a conferencing scheme based on the restorative justice model employed in NZ (Parliament of NSW, Legislative Assembly, October 17, 1996, p. 5031). The police-led scheme was eventually replaced by a statutory scheme based on the NZ model. This scheme was legislated within the *Young Offenders Act* 1997 (NSW) and was implemented throughout NSW by 1998.

### **2.5.2. Legal context**

The *Young Offenders Act* 1997 (NSW) (*YOA*) is an evidence-based legislative framework which formalises alternatives to court proceedings for young people who have committed summary offences or indictable offences which may be dealt with summarily, as defined by the *Criminal Procedure Act* 1986 (NSW). The *YOA* governs a hierarchy of sanctions to be applied to young people between 10 and 18 years, and those being dealt with under the Act whilst under the age of 21 years. Section 9(1) *YOA* states that the procedures for dealing with young offenders are to include graduated sanctions from least to most punitive via warnings, cautions, conferences, and finally court appearances. The legislation was referred to by Mr Crittenden, Parliamentary Secretary, as a tool through which young offenders could be dealt with in a manner appropriate to the circumstances (Parliament of NSW, Legislative Assembly, August 17, 2000, p. 12898).

Youth Justice Conferencing was established in NSW under the *YOA* in 1997. The scheme was recognised in the NSW Parliament as an important initiative which provided a radically different approach to juvenile justice (Parliament of NSW,

Legislative Assembly, June 22, 2000, p. 7446). Youth Justice Conferencing is a diversionary mechanism based on the philosophy of restorative justice (Parliament of NSW, Legislative Assembly, June 22, 2000, p. 7446). Although the legislation does not directly refer to restorative justice, conferencing arose out of restorative justice rhetoric inspired by the development and geographical expansion of the NZ Family Group Conferencing model alongside UN policies and conventions (Bolitho, 2005; Maxwell et al., 2008; Youth Justice Services, 2008). Conferencing exists as a restorative justice mechanism endorsed as a form of regulatory control (Fox, 2015). It involves bringing a young offender and their family face-to-face with the victim and their support group (JJNSW, n.d.). This approach aims to instil a sense of responsibility and remorse within the young offender to produce reparation for harm caused, empower victims and families of young offenders, and reintegrate the offender back into the community. JJNSW (n.d.) promotes Youth Justice Conferencing as cooperative and inclusive rather than adversarial. Conferencing considers the victim's perspective, the offender's perspective, and provides an avenue through which a mutually beneficial outcome plan can be made.

In NSW, referrals to Youth Justice Conferencing can be made by NSW police, the Office of the Director of Public Prosecutions (DPP), or the Children's or district court. Police referrals are made by Youth Liaison Officers, specialist administrators of the YOA for NSW Police. Youth Liaison Officers are the primary point of contact between NSW Police and JJNSW, and there is one available within every Local Area Command in NSW (Murphy et al., 2010, para. 103). Youth Liaison Officers liaise with Specialist Youth Officers who are appointed to determine whether Youth Justice Conferencing is the most appropriate means through which to address the behaviour of the young offender (Murphy et al., 2010, para. 104). If Youth Liaison Officers and

Specialist Youth Officers reach agreement on the use of conferencing, the matter is referred to a conference administrator, to be passed on to a conference convenor. However, if the Youth Liaison Officer and Specialist Youth Officer fail to agree, the matter is referred to the DPP for further assessment (Trimboli, 2000, p. 9). Conference administrators are employed as public servants by JJNSW. On the other hand, conference convenors are members of the community, independent persons trained by JJNSW Youth Justice Conferencing Directorate to convene and conduct conferences (Trimboli, 2000, p. 74). Trimboli (2000, p. 9) stated that conference convenors are chosen on their suitability for individual conferences. In NSW, there are 35 Youth Justice Conferencing community offices operated by Assistant Managers, under which local community members are contracted as conference convenors (JJNSW, n.d.).

Provisions within the *YOA*, the *Crimes Act 1990* (NSW) and the *Crimes (Domestic and Personal Violence) Act 2007* (NSW) determine which offences and offenders meet the criteria for conferencing. Offences must not involve sexual, serious drug or traffic offences, or one involving the death of a person (Moore 2011a). However, the seriousness of the offence must exceed that which can be dealt with by a warning or a caution (Little & Allard, 2011, p. 156). Participation requires sufficient evidence to prove, at least on a balance of probabilities, that an offence has occurred, consideration of the seriousness of the offence, the age of the offender, offence history, voluntary consent, and entitlement to be dealt with under a conference, as per s36 *YOA*. Police cautioning is limited to three per offender, meaning referral to Youth Justice Conferencing usually occurs after the threshold of cautions have been reached. There are no limits on the number of conferences in which a young person can participate however, there is an assumption that multiple conferences will not be offered for persistent re-offending (Moore, 2011a, p. 1). The most controversial requirement of

participation is admission of guilt. A young offender cannot participate in a Youth Justice Conference unless they confess to the offence (s36(b) *YOA*). However, if dealt with under a conference, the offence does not become part of the young person's criminal record unless the young person appears before court because of failure to complete their outcome plan (s58 *YOA*).

Section 34(2) *YOA* states that the purpose of the conference is to, through negotiation and agreement between all parties, create and implement an outcome plan for the young person to complete. The outcome plan should enhance the rights, needs, abilities, and opportunities of the young person, hold them accountable, encourage acceptance of responsibility, empower the family and victims, and make reparation for the offence (s34(3) *YOA*). Section 52 *YOA* states that an outcome plan may include a verbal or written apology, reparation to the victim or community, or any other actions which reintegrate the young person into the community or participation in an appropriate program. Appropriate programs may include counselling, drug and alcohol rehabilitation programs, educational programs, or others which aim to improve the young person's prospects. Outcome plans must generally be completed within six months (JJNSW, 2012). If an outcome plan is not completed satisfactorily, the young person is referred to the instigating body, be it the police, courts or DPP, as per s53 *YOA*. Section 43 *YOA* states that a conference should be held no later than 28 days after the referral for the conference is received by the conference administrator, and not less than 10 days after notice is given to the young person, unless it is not practical to do so.

## **2.6. Youth Justice Conferencing for YMF**

Youth Justice Conferencing for YMF has formally been in operation since FRNSW and JJNSW signed a Memorandum of Understanding in 2006. The legal,



political, and socio-political context surrounding the program's development provides insight into the purpose and scope of Youth Justice Conferencing for YMF.

### **2.6.1. Legal context**

The word 'arson' originates from the Medieval Latin 'ardere', meaning to burn (Prins, 1994, pg. 25). Arson, historically a common-law offence, was traditionally defined by the act and the direct consequences of that act (Cahill, 2009, pg. 80). Consequently, it was a general intent offence meaning motivational differentiation was not required to label intentional or negligent misuse of fire as arson (Burton, McNeil, & Binder, 2012). Arson as a common-law offence was abolished by the *Crimes (Criminal Destruction and Damage) Amendment Act 1987* (NSW), which legislated a regime of property damage by means of fire offences under the *Crimes Act 1900* (NSW) (Judicial Commission of New South Wales [JCNSW], 2012). Specifically, s195(1)(b) *Crimes Act 1900* (NSW) states that a person who intentionally or recklessly damages or destroys property by fire or explosives is guilty of an offence (and liable for 10 years' imprisonment). This offence is aggravated by intent to injure, intent to gain, and intent to endanger life. There also exists a major Rural Fires offence as prescribed by s100(1) *Rural Fires Act 1997* (NSW) which states that a person is guilty of an offence if they light, maintain, fail to contain, or leave, without complete extinguishment, a fire set on land or property. Finally, minor bushfire arson offences contained in *Rural Fires Act 1997* (NSW) and *Rural Fires Regulation 1998* (NSW) include the prohibition of using fire to demolish a building or to destroy sawmill waste, and the prohibition of lighting, using, or carrying a tobacco product within a certain distance of combustible materials. The *Forestry Regulation 1999* (NSW) prohibits leaving or depositing a lighted cigarette/tobacco product/lighted match in a forestry area. The *National Parks and*

*Wildlife Regulation 2002* (NSW) prohibits lighting, leaving unattended, failing to report, or extinguish a fire, and the handling of flammable substances in a way to cause fire. Although the majority of these offences are indictable in nature, most are dealt with summarily (JCNSW, 2012).

The *Young Offenders Act 1997* (NSW) covers summary offences and indictable offences which can be dealt with summarily, committed, or alleged to have been committed, by people between the ages of 10 and 18 years. The above fire-related offences are offences considered under this Act, and are therefore applicable to young people. However, the *YOA* specifies that procedures for dealing with young people covered by the Act include warnings, cautions, and conferencing. As detailed above, s8 and s36 *YOA*, the *Crimes Act 1990* (NSW) and the *Crimes (Domestic and Personal Violence) Act 2007* (NSW) specify the types of offenders and offences which can be dealt with by way of diversionary mechanisms. Albeit constrained by this legislation, diversionary mechanisms such as Youth Justice Conferencing are applicable to young people who commit fire-related offences.

### **2.6.2. Political context**

Robert Carr, member of the Australian Labor Party (ALP), served as the Premier of NSW between 4 April 1995 and 21 March 2005 (Parliament of NSW, 2016). After resigning, Carr was succeeded by Morris Iemma, who maintained leadership of the ALP and the role of Premier from 3 April 2005 until 5 September 2008 (Parliament of NSW, 2016). During this time, Anthony Kelly, a member of the ALP since 1977, was Minister for Justice and Juvenile Justice and Emergency Services (Parliament of NSW, 2016). The NSW State Government, and thus the Juvenile Justice and Emergency Services

portfolios, were administered by the ALP before, during, and immediately after, the development of Youth Justice Conferencing for YMF.

Crime and justice issues dominated NSW politics during the reign of the Labor party (Clune, 2002). Concerns about gang crime, drug crime, and police corruption dominated the political agenda (Clune, 2002). One of the key youth policy pledges which arose from the Labor Party during this time was to redirect resources to interrupt the cycle of incarceration of young people (Johns, 2003). The ALP's juvenile justice policies assumed that young people should engage in community based programs to ensure they were not isolated from the society they would re-enter (Johns, 2003). Diversionary programs, educational programs, and crime prevention were intrinsic to the ALP's approach to juvenile justice (Johns, 2003). In an examination of proposed expenditure for the portfolio areas Juvenile Justice and Justice, Kelly stated that a key policy issue for Juvenile Justice was cross-agency collaboration to assist in reducing recidivism in young people (Parliament of NSW, General Purpose Standing Committee, 2005). In 2006, the 'State Plan: A New Direction for NSW' reinforced the need to divert young offenders away from the criminal justice system to reduce crime rates (NSW Government, 2006, p. 27). In addition, in a Parliament of NSW report 'Reducing the risk of recidivism', Drabsch (2006) stated that restorative justice initiatives such as Youth Justice Conferencing repair harm, restore relationships, and encourage the acknowledgement of wrongdoing, all of which have the capacity to contribute to a reduction in recidivism. The NSW Government thus placed juvenile justice, restorative justice mechanisms, cross-agency collaboration, and a reduction in recidivism on the political agenda.

This agenda enabled the Labor Party to pioneer the introduction of Youth Justice Conferencing in the NSW Parliament. In Questions without Notice, October 1996, the

then Minister for Police, Mr Paul Whelan, stated that one of the main objectives of the ALP was to seek better alternatives for young people who break the law (Parliament of NSW, Legislative Assembly, October 17, 1996, p. 5031). Mr Whelan stated that restorative justice would replace retribution through a mechanism that facilitated repairing harm rather than punishing the offender (Parliament of NSW, Legislative Assembly, October 17, 1996, p. 5031). In 1997, the *Young Offenders Act 1997* (NSW) was introduced, establishing the legislative framework necessary to formalise a hierarchy of sanctions, from warnings, cautions, to conferences, to be applied to young people between the ages of 10 and 18 years. Since the formal implementation of Youth Justice Conferencing under the *YOA*, the ALP has consistently referred to conferencing as a ‘smart option, not a soft option’ (Parliament of NSW, Legislative Assembly, April 1, 1998, p. 3583; Parliament of NSW, Legislative Assembly, August 17, 2000, p. 12898). This commitment to restorative justice can be traced throughout the Labor Party’s administration, and was further compounded in 2002 when the UN Economic and Social Council encouraged member states, including Australia, to establish guidelines and standards for the implementation of restorative justice mechanisms within their legal systems (Larsen, 2014).

There is also evidence to suggest that, between 1995 and 2008, the ALP repeatedly identified misuse of fire as a substantive community concern. During Question and Answer sessions in the NSW Parliament during this period, misuse of fire was portrayed as a concern requiring additional resources (Parliament of NSW, Legislative Assembly, October 24, 2001, p. 1644; Parliament of NSW, Legislative Assembly, December 1, 2005, p. 5318; Parliament of NSW, Legislative Assembly, March 2, 2006, p. 5470). The State Government also recognised the threat posed to the NSW community by fire and climate change. In a private member’s statement made in

2001, Mr Stoner, member for Oxley, drew the parliament's attention to deliberately lit bushfires. Mr Stoner stated that deliberately lit bushfires were an increasing problem and that the Government must address this serious threat to NSW (Parliament of NSW, Legislative Assembly, October 24, 2001, p. 17867). During the first reading of the Crimes Amendment (Bushfires) Bill 2002, Mr Stewart stated that despite the inevitability of bushfires occurring in NSW, it was the Government's responsibility to prevent their occurrence, frequency, severity, and being deliberately lit (Parliament of NSW, Legislative Assembly, April 12, 2002).

Prior to the development of Youth Justice Conferencing for YMF, the NSW state government promoted an agenda that recognised the importance of implementing diversionary, reintegrative programs for young offenders, identified the potential of restorative justice mechanisms to reduce recidivism in young people, and realised cross-agency collaboration was required to reduce the risk of recidivism in young people. The Government also recognised the risk posed by YMF to the community of NSW, considered the future effects of climate change, particularly on bushfire risk, and accepted that it was the Government's responsibility to mitigate this risk.

### **2.6.3. Socio-political context**

Between 24 December 2001 and 16 January 2002, 44 local government areas in NSW including Greater Sydney, Hunter, North Coast, Mid North Coast, Northern Tablelands, and Southern Tablelands experienced fires which led to 744,000 hectares burnt, 109 houses destroyed, 40 houses damaged, and 6,000 stock lost at a total cost of \$131 million (Parliament of NSW, 2014). This period was dubbed 'Black Christmas'.

Official reports indicated that, of the 23 persons arrested in NSW for fire-related offences during the 2001-2002 bushfires, 17 were young people (Drabsch, 2003). Media

reports employed an array of negative labels to refer to young people who had allegedly misused fire during this time: Firebug, Lucifer, Terrorist, Mad, Wicked, Cowboy, Murderer, and Traitor. The term firebug was employed most often and made its way into political rhetoric including parliamentary debates and private members' statements (Parliament of NSW, Legislative Assembly, May 8, 2002, p.1838). 'The Daily Telegraph's' headline '21 Lucifers' was widely cited (Daily Mail, 2002; Dutter, 2002, January 4; Goldsmith, 2002, April 4; Perry, 2002, October 10; Phillips, 2002, January 5; SkyNEWS, 2002, January 3). 'The Daily Telegraph' stated that those responsible for the fires should be incarcerated to protect the community, while also proposing that jail may be too good for them (Tinkler, 2002, January 4). Arsonists were labelled the worst type of criminal (Head, 2001, December 29) and a war on arson was declared (Daily Mail, 2002; Dutter, 2002, January 4; Perry, 2002, October, 10; SkyNEWS, 2002, January 3).

Bryant and Willis (2006) stated that media reactions have the potential to focus community outrage and to establish blame for the devastation caused by bushfires. During the bushfire crisis, media reports instilled outrage within the NSW community. Deputy Police Commissioner Ken Maroney stated that the lighting of fires were "...acts of sheer bastardry... destroying the hopes and wishes of fellow citizens" (Martin, 2001, December 31). Community members called for tougher penalties for misuse of fire irrespective of the age of those found culpable (Daily Mail, 2002; Tinkler, 2002, January 4). There was demand for a public register of arsonists (Maranville, Tuck, Foster, & Martin, 2002, January 1), calls for arsonists to be hung (Shadbolt & Martin, 2002, January 3), burned at the stake or locked in cages at Taronga Park Zoo (CBC News Online, 2002, January 2). Members of the community declared arsonists

Australia's real terrorists whose activities should meet a ruthless response (Daily Mail, 2002; Dutter, 2002 January 4; SkyNEWS, 2002 January 3).

Roy Morgan (2002) administered a telephone poll of 625 Australians aged 14 years and over on January 9-10, 2002. The poll, conducted immediately after the 2001-2002 bushfire crisis, revealed that respondents maintained punitive attitudes towards young people who misused fire. Twenty per cent of NSW based respondents felt that young people found guilty of a fire-related offence should be incarcerated, 32.0% felt they should be sent to a youth detention centre, and 41.0% felt they should receive a fine and/or a community service order (Roy Morgan, 2002). Further, 83.0% of NSW respondents approved of a register of arsonists similar to the NSW Government's register of paedophiles (Roy Morgan, 2002). Such findings indicate that respondents maintained punitive attitudes towards young people who committed fire-related offences immediately after the 2001-2002 bushfires.

Murphy et al. (2010, p. 46-47) highlighted that when issues attract the attention of the media, are sensationalised, and particularly when they engender a moral panic, politicians must act in response to these specific issues regardless of their reflections of reality. Premier Carr reportedly sensed public anger (Daily Mail, 2002) and "tapped into public outrage" (SKYNews, 2002) related to those young people allegedly responsible for the bushfire crisis. Carr responded to the crisis by calling for more punitive penalties for young people who committed fire-related offences. The Premier stated that he wished to "rub their noses in the ashes they have caused" (FOXNEWS, 2002, January 2; The St Augustine Record, 2002, January 3), and that they were to be tracked down and "punished with the full force of the law" (Parliament of NSW, Legislative Assembly, October 23, 2002, p. 5784). Carr called for the utilisation of restorative justice measures to ensure that young arsonists were confronted with the harm they had caused and were

forced to “clean up the mess, work with the victims and go into a burns ward and talk to people who have suffered from fire.” (Phillips, 2002, January 5, para. 6). Premier Carr declared an intention to modify Youth Justice Conferencing to ensure it targeted young people who misused fire. Roy Morgan’s (2002) telephone poll revealed support for this approach. Respondents were asked whether they agreed to the use of Youth Justice Conferencing to deal with young people who had committed fire-related offences, as recommended by Premier Carr. The question was framed “In the wake of the New South Wales Bushfires, NSW Premier Mr Bob Carr has called for 'youth conferencing', where juvenile arsonists confront victims of their crimes. Do you approve or disapprove of that?” (Roy Morgan, 2002). Eighty-seven per cent of NSW respondents approved (Roy Morgan, 2002).

In early 2002, the *Young Offenders Regulation 1997 (NSW) (YOR)* was amended to include a mandatory provision for content of Youth Justice Conferencing outcome plans for bushfire/arson juvenile offenders. Section 19A(1) *YOR 1997* was included to state that a young person has committed an offence if they have lit a bush fire or have caused the destruction or damage of property by means of fire. Section 19A(2) *YOR 1997* was amended to state that an outcome plan for a young person who admits to an offence consisting of the lighting of a bushfire or the destruction or damage of property by means of fire must provide for attendance by the young person at a burns unit or ward of a hospital or the screening of a film or video designed to provide education as to the harmful effects of fire; the making of reparation via assistance in clean-up operations and in the treatment of injured animals; and the payment of compensation.

During the second reading of the Young Offenders Amendment (Reform of Cautioning and Warning) Bill, Mr Stoner, Leader of the National Party, stated that the



changes to Youth Justice Conferencing outcome plans was an attempt to “jump on the bandwagon of public opinion” in the wake of the bushfire crisis (Parliament of NSW, Legislative Assembly, July 3, 2003, p. 2822). The amendments did not alter the legislative restrictions placed on the type of offences and offenders which could be dealt with under Youth Justice Conferencing, and thus did not increase the number of young people who had committed fire-related offences being administered fire-specific outcome plans. Further, the DPP stated that fire-specific components of an outcome plan were probable under the existing legislation and that there was no need for amendments to be made (Parliament of NSW, Legislative Assembly, July 3, 2003, p. 2822). Finally, in a regulatory impact statement, the NSW Attorney General’s Department (2010) stated that mandatory attendance at a burns unit had the potential to: compromise strict hospital hygiene and visitation protocols; cause distress to patients; and traumatise rather than educate young offenders. The Law Society’s Juvenile Justice Committee subsequently recommended the removal of this provision (Tidball, 2010), which was later enacted in *YOR* 2010.

The 2001-2002 NSW bushfires fuelled punitive representations of YMF, generating penal populism. Legislative amendments arose from this discourse, consisting of provisions for fire-specific components to be included as part of a young person’s Youth Justice Conferencing outcome plan. Changes to the *YOR* 1997 were framed as a means through which the ALP could demonstrate a tough on crime approach. This perception may have originated from a lack of awareness of the purpose of restorative justice. However, given public outrage over the bushfire crisis and demand for a punitive response, Carr may have intentionally framed Youth Justice Conferencing as a retributivist approach to avoid populist backlash over what may have

otherwise been perceived as leniency. Nevertheless, this change to the *YOR* 1997 formed the foundation for firefighter involvement in Youth Justice Conferencing.

#### **2.6.4. The interagency agreement**

To facilitate the inclusion of fire-specific tasks with outcome plans, young people who committed a fire-related offence and subsequently participated in conferencing were originally referred to FRNSW's secondary prevention program, the Juvenile Intervention and Fire Awareness Program (IFAP). FRNSW believed IFAP may provide a model which would enable firefighters to attend conferences, and to include fire safety education as part of a young person's outcome plan (FRNSW, 2014d). This utilisation would morph a pre-existing program developed to target young people identified as at-risk of misuse of fire into one which could also target young people apprehended and charged for misuse of fire. However, IFAP is a family-based, voluntary program which requires assessment and referral prior to participation. Referral to IFAP as a component of a young person's outcome plan is therefore incongruous with the precepts of the program. Particularly so when considering evidence which indicates that many young people who misuse fire come from disrupted or dysfunctional familial environments (Kolko & Kazdin, 1986; Lambie & Randell, 2011; Root et al., 2008; Slavkin & Fineman, 2000; Ward, 2005, Yarnell, 1940). JJNSW and FRNSW recognised this limitation, but realised the value of involving firefighters in conferencing to facilitate the inclusion of fire-specific outcome plan tasks and to assist young people in understanding the consequences of misusing fire.

On the 31<sup>st</sup> May, 2006, JJNSW and FRNSW signed a Memorandum of Understanding (MoU) to facilitate firefighter involvement in conferencing convened for young people who committed fire-related offences. This agreement states that, upon

invitation by the relevant Juvenile Justice Manager, a FRNSW firefighter may voluntarily attend a conference in the role of a participant (Schedule 2, MoU, 2011). They will: provide age and offence specific fire safety education to the young person and their family (s6.1 MoU, 2011); suggest fire safety related tasks to include within the young person's outcome plan (s8.3 MoU, 2011); and monitor relevant components of the outcome plan to determine compliance and completion (s8.4 MoU, 2011). Such collaboration aims to educate the young person on the consequences of misusing fire and teach them safe fire behaviours.

## **2.7. Conclusion**

Although YMF is a covert behaviour, difficult to detect and investigate, evidence indicates that it presents a high risk to life and property. Literature pertaining to the aetiology of YMF suggests that the behaviour may manifest as a symptom of psychopathology or as a normal developmental behaviour. These two aetiological streams have informed responses to YMF. Classification systems, risk assessment tools, and treatment programs have emerged from the fields of psychology and psychiatry to target misuse of fire which manifests as a symptom of psychopathology. Primary, secondary, and tertiary prevention programs which target YMF that occurs as a normal developmental behaviour have emerged from the fields of psychology and criminology. Youth Justice Conferencing forms the foundation upon which the tertiary prevention of YMF is based. Youth Justice Conferencing for YMF emerged in 2006 in response to the legal-socio-political climate. The program is managed by a Memorandum of Understanding between FRNSW and JJNSW. This agreement provides the framework through which firefighters participate in Youth Justice Conferencing convened for young people who commit fire-related offences.

## **Chapter 3: Theory - Part 1**

### **3.1. Introduction**

Building a theoretical framework to inform and justify a unique program, or in this case, a unique extension of a program, is a process. To begin this process, theoretical frameworks from wider literature will be integrated, as recommended by Corcoran, Zahnow, and Higgs (2016) (section 3.2). This chapter will provide an explanation of the first of three theoretical frameworks - restorative justice (section 3.3). Two theories which explain the mechanisms operant in restorative justice, Braithwaite and Pettit's (1992) republican theory of criminal justice (section 3.4) and Braithwaite's (1989) theory of reintegrative shaming (section 3.5), will be presented. The applicability of these theoretical frameworks will reiterate that conferencing for YMF exists as a restorative justice mechanism.

### **3.2. Theoretical framework**

As recommended by Zehr (2007), restorativeness exists along a continuum. Conferencing for YMF falls within the range of restorativeness because it piggybacks an existing restorative justice initiative. However, the program is not restorative in entirety. This is because Youth Justice Conferencing for YMF also aims to achieve fire prevention and child-centred disaster risk reduction (CC-DRR) principles. From a fire prevention perspective, conferencing for YMF acts as a unique mechanism that facilitates the tertiary prevention of YMF by intervening in the human link between combustible fuel and forms of heat ignition. Conferencing for YMF also sits within the realm of CC-DRR, providing a mechanism which utilises the participation of young people to improve their understanding of the risks posed by fire and potential impact

fire can have on their communities. The frameworks of restorative justice, fire prevention, and CC-DRR form an interrelated scaffold that has the potential to explain and justify conferencing for YMF as a tertiary prevention initiative. By utilising this scaffold, as displayed in Figure 2, and the interrelated factors pertaining to each framework, as listed in Table 3 and highlighted throughout the text in *italics*, conferencing for YMF may be perceived as a tertiary prevention initiative with its own unique program logic.

**Figure 2. Mechanisms operant in conferencing for YMF**



**Table 3. Mechanisms operant in conferencing for YMF**

Mechanism	Fire Prevention <sup>a</sup>	Restorative Justice <sup>b</sup>	CC-DRR <sup>c</sup>
<b>Firefighter participation</b>	Regard for model Vicarious learning	Equal concern for all stakeholders Participatory community Communitarianism	
<b>Denunciation of the behaviour</b>	Negative reactions of significant others	Censure of the act Reintegrative shaming	
<b>Offender responsabilisation</b>	Learning by direct experience	Accountability Acknowledgement of dominion impinged	
<b>Remorse</b>	Vicarious conditioning	Emotional restoration Remorse over injustice	
<b>Fire-specific outcome plan tasks</b>	Negative punishment Positive punishment Negative reinforcement	Dialogic regulation Restoration of property loss, damaged human relationships, communities and/or the environment Re-enactment of dominion	
<b>Respect</b>	Regard for model Negative reactions of significant others	Reintegrative shaming	Mutual regard for young people
<b>Fire safety education</b>	Intervention particularised to the individual's offending Informed anticipated consequences of prospective use of fire		Access to knowledge and information Expanding knowledge and strengthening skills
<b>Safe fire behaviour</b>	Adaptive capacity		Managing fire risk
<b>Reduced recidivism</b>	Self-regulation Symbolic learning		Reducing the risk and impact of fire-related disasters
<b>Voluntariness</b>		Non-domination Empowerment	Democratic process through which young people create opportunities
<b>Active participation</b>		Non-domination Restoration of damaged human relationships	Consultative process through which young people have a voice and negotiate outcomes
<b>Catalyst for cognitive/behavioural change</b>		Accountability Restoration of sense of duty as a citizen	Participative process through which young people take direct action to engender change
<b>Risk mitigation</b>		Prevention of future injustice	Process where direct action reduces the risk associated with YMF

<sup>a</sup>Fire Prevention principles sourced from McDonald, 2010; Pinsonneault, Richardson and Pinsonneault, 2002.

<sup>b</sup>Restorative Justice principles sourced from Braithwaite, 2002.

<sup>c</sup>CC-DRR principles sourced from Back, Cameron and Tanner, 2009; Sewell, Towers, Haynes, Bailie and Cross, 2014.

### 3.3. Restorative Justice

The most widely supported definition of restorative justice was devised by Marshall (1996, p. 37), who described the concept as “a process whereby all the parties with a stake in a particular offence come together to resolve collectively how to deal with the aftermath of the offence and its implications for the future”. Restorative justice informs the mechanisms through which crime, disputes, and bounded community conflict are addressed (Daly, 2016, p. 21). The concept was derived from practices and philosophy rooted in victimology, communitarian, and critical criminology in Anglophone societies (Walgrave, 2009). Although only gaining traction within English literature in the late 1970s, restorative justice has been employed in civilian, familial, educational, and workplace settings in numerous countries and cultures around the world for hundreds of years (Zehr, 2015). According to the literature, restorative justice informed Australia’s approach to juvenile justice since the 1990s, specifically the implementation of diversionary mechanisms which provide an alternative to processing juveniles within the criminal justice system. As a justice mechanism, restorative justice informs the process and the outcomes which derive from it (Bolitho, 2012). It is therefore a means and an aim. It involves a meeting of those parties most affected by an offence, the offender, the victim, their families, and other communities of care (Maxwell & Morris, 2006), facilitated by an impartial individual or collective, at any stage of the criminal process (Daly, 2016), to attain reparation for harm caused (Gavrielides & Artinopoulou, 2013).

Restorative justice aims to restore the full citizenship of all those affected by crime (Clear, 2008) when crime is defined by harm caused rather than transgression of law (Walgrave, 2009). Restorative justice relies upon the assumption that crime is a violation of interpersonal relationships and that offenders are obligated to address this violation (Barnes,

Hyatt, Angel, Strang, & Sherman, 2015). Ward, Gannon, and Fortune (2015) described this as a relational ethic which assumes all human beings are moral stakeholders and maintain a responsibility to repair interpersonal relationships damaged by crime. Reparation of harm requires the following key principles to be achieved: healing, respectful dialogue, making amends, taking responsibility, participatory community, remorse, and forgiveness (Braithwaite, 2000b). Restorative justice is thus a construct informing conflict resolution which emphasises collaboration over adversary, and which focuses on restoring victims, offenders, and communities over and above punishment principles (Braithwaite, 2000b). Nevertheless, restorative justice is not the opposite of retributive justice. Both identify the need to restore balance through reciprocity, yet differ in the way this balance should be restored (Zehr & Gohar, 2003).

Braithwaite (2002b) suggested that for programs to be restorative in process they must possess constraining, maximising, and emergent standards. These standards are deliberately broad to avoid imposing legalistic regulation on restorative justice (Braithwaite, 2002). Constraining standards are fundamental procedural safeguards and comprise values which must be prioritised, including: non-domination, empowerment, respectful listening, equal concern for all stakeholders, accountability and appealability, and respect for international conventions and human rights (Braithwaite, 2002). Maximising standards assists in returning all stakeholders of the offence back to their pre-offence state including: restoration of human dignity, property loss, safety, damaged relationships, communities, the environment, freedom, compassion, peace, sense of duty as a citizen, the provision of social support and the prevention of future injustice (Braithwaite, 2002). These standards should be actively encouraged. Finally, emergent standards are a product of the process and occur spontaneously including: remorse, apology, censure, forgiveness, or mercy (Braithwaite, 2002). These



standards should not be forced; they must emerge naturally, in a meaningful way (Braithwaite, 2002).

Despite the strong theoretical foundations of restorative justice, there exists a multitude of criticisms within existing literature. Bolitho (2005) summarised these into three main categories: first, a lack of procedural safeguards arising from admission of guilt as a pre-requisite, net-widening, the potential for secondary victimisation, and a lack of training for conference coordinators (Bolitho, 2005; Braithwaite & Parker, 1999; Bull, 2010; Daly, 2002; Murphy et al., 2010; Richards, 2010); second, domination arising from power imbalances created by patriarchal structures, class inequalities, and Anglo-centric notions of restorativeness (Bolitho, 2005; Braithwaite & Parker, 1999; Bull, 2010); and third, the ambiguity of key concepts including rehabilitation, community, and restorative justice (Bolitho, 2005; Daly, 2008; Wood & Suzuki, 2016). Daly (2008) theorised the key limitations of restorative justice rest on the assumptions that: offenders are empathetic, apologetic, and rational; victims are generous and forgiving; offenders have supportive communities of care; and facilitators can guide participatory discussion and decision-making. Restorative justice initiatives are also limited by their incapacity to consider the broader social conditions which influence criminal behaviour. Sullivan and Tifft (2008) stated that restorative justice can only be achieved when interdependency and communitarianism exist both within the conference and the community in which the offender will be returned.

These questions of validity and disputes over definitions persist, meaning the ability of restorative justice to transform the traditional criminal justice system is limited (Fox, 2015). Nevertheless, Zehr (2007) suggested that processes and outcomes are not restorative merely because they follow the principles of restorative justice, but because they achieve the values. Bolitho (2012) conducted a non-participant observational study of Youth Justice

Conferencing in NSW, observing that conferencing provided an environment conducive to non-domination, empowerment, and respectful listening. Moore (2011a) performed a study of 13,980 criminal justice records within the Bureau of Crime Statistics and Research Re-offending Database to assess adherence to the philosophy informing the *YOA*. Moore (2011a) found that offenders were being diverted and the graduation of sanctions were being applied, suggesting conferencing provides a means through which the state can honour upper limits on sanctions and can utilise diversionary mechanisms which align with international conventions and human rights. Braithwaite's (2002) standards, or values, may therefore be attained through restorative justice mechanisms such as Youth Justice Conferencing. Restorative justice may in fact be 'better than what went before' (Braithwaite & Parker, 1999, p. 122). Nevertheless, restorativeness should be perceived as a continuum and programs should be evaluated according to where they fall along a range of restorativeness (Zehr, 2007).

### **3.3.1. Restorative Justice and Conferencing for YMF**

The mechanisms operant in YMF and its tertiary prevention can be elucidated by applying the principles of restorative justice. YMF is a violation of people and relationships. Intervention is thus required to restore these relationships. YMF is considered a community problem of which JJNSW, FRNSW, and the community maintain shared responsibility. Intervention thus requires communitarianism. YMF refers to an array of behaviours where the potential for harm caused falls along a continuum from minor property damage to loss of life. Intervention thus requires an avenue through which young people can understand the harm they have caused, accept responsibility, and offer reparation. YMF may be defined as a normal developmental behaviour. Intervention must therefore differentiate individual capacity from harm caused, condemning the behaviour rather than the individual. Where

YMF manifests as a normal developmental behaviour, intervention should target inquisitiveness and experimentation caused by a lack of fire safety education (Stadolnik, 2000). Conferencing for YMF offers a form of intervention which: enables restoration; furthers communitarianism; provides an avenue for responsabilisation and reparation for harm caused; condemns the behaviour rather than the young person; and facilitates the provision of remedial education. Theoretical analysis thus suggests that conferencing for YMF employs restorative processes and has the capacity to attain restorative outcomes.

The ten signposts of doing justice restoratively (Zehr & Gohar, 2003, p. 44) provide further insight into the applicability of restorative justice to conferencing for YMF.

1. *A focus on harm*: The purpose of firefighter involvement in conferencing for YMF is to educate the offender on harm caused by the fire-related offence. The ensuing discussion is centred on harm caused rather than the rules which have been transgressed. The aim of this approach is to encourage *offender responsabilisation* for harm caused. This may be achieved through expressions of *remorse*, the making of reparation, and seeking of forgiveness (Restorative Justice Network, 2003).
2. *Equal concern for all stakeholders*: Those most affected by a fire-related offence are invited to participate in conferencing. As per s47 YOA, conferencing generally involves the offender, the conference convenor, a person responsible for the young person, members of the young person's family, an adult chosen by the young person, a legal practitioner advising the young person, the investigating official, a specialist youth officer, the victim, the victims' representatives, and if appropriate a police officer, a respected member of the community, an interpreter, a school representative, a social worker, a health practitioner, a juvenile justice

officer, or any other person requested by the young person's family. The program also ensures FRNSW, as the agency which responded to the fire, is represented within the conference. All stakeholders are involved in the justice process when they are given the opportunity to talk about the offence and their resultant needs.

3. Work towards restoration and empowerment of victims and families: Victims are provided with the opportunity to attend conferencing for YMF and to participate in a discussion surrounding the offence and how best to repair harm. The power of veto lies with the victim (as well as the offender), who has the right to reject whole or part of the outcome plan regardless of the views of other stakeholders (s52(4) YOA). When the victim is unable to attend, or the offence is 'victimless', a firefighter may attend as a victim's representative. The presence of a firefighter may therefore increase the likelihood that restoration will be achieved.
4. Support offenders while educating them on harm caused and the need to accept and carry out their obligations: Conferencing for YMF recognises harm caused and provides a mechanism for reparation by instilling a sense of responsibility within the young offender to repair harm. Conferencing for YMF utilises firefighters as subject matter experts and/or victims' representatives to educate the young person about the actual or potential consequences of their offence. The convenor then directs discussion about the best way for the offender to make restitution and/or reparation for their behaviour (Bolitho, 2012; Little & Allard, 2011). This usually results in the mutual development of an outcome plan which generally includes a *fire safety education* component, payment of compensation, a verbal or written apology, and/or participation in appropriate programs. The need for the young person to meet these obligations is specified in s57(1) YOA. Young

people may be referred to court for failing to reach consensus about, or failing to fulfil the components of, an outcome plan.

5. Obligations should not be intended as harms and should be achievable: The outcome plan details the obligations of the offender. Section 52(6) *YOA* states that tasks within an outcome plan must not exceed that which a court may impose on conviction for the same offence. Further, the offender must contribute to, and agree upon, the tasks to be completed within an outcome plan for them to be implemented as per s52(4) *YOA*. Obligations thus possess a degree of *voluntariness*.
6. Promote dialogue between victims and offenders: Conferencing for YMF begins with a recount of the offence from the offender's perspective. The victim is then provided with the opportunity to describe the effects the offence has had of them and their family (Little & Allard, 2011). This is described by Zappavigna and Martin (2014) as a rejoinder, a discussion about the impact of the offence on the victim and community. The role of the convenor is to direct discussion about the impact of the offence and the development of an outcome plan. This *consultative process* is followed by the opportunity for informal discussion (Zappavigna & Martin, 2014).
7. Find meaningful ways to involve the community: The community, according to Zehr and Gohar (2003), is a micro-community, a community of care, which involves those people within the community who care about the offence and the people it has affected. Conferencing for YMF recognises the communal bonds which unite the offender with their community of care, encouraging the offender's family and/or other support people to attend the conference. Other stakeholders,

such as firefighters or other members of the offenders' macro-community, are also encouraged to participate. By providing a mechanism for *participatory community*, all participants are provided with the opportunity to engage in discussion about the offence, their resultant needs, and the best way to repair harm.

8. Encourage collaboration and *reintegration*: Conferencing for YMF encourages *active participation* by allowing the offender, the victim, and their supporters the freedom to express their opinions and share their stories. Agreement must be reached before an outcome plan is made, the purpose of which is to *restore damaged relationships* and reintegrate the offender back into the community.
9. Give attention to the unintended consequences of your actions and programs: This is the only signpost which is not currently achievable within conferencing for YMF because the program has not been empirically evaluated. The unintended consequences of the program therefore remain unknown.
10. Show *respect* to all parties: Restorative justice proposes that all people, regardless of their actions, have inherent and equal worth (Restorative Justice Network, 2003, p. 2). Although respect may differ at the conference level, conferencing for YMF aims to adhere to the restorative justice value of respect.

Conferencing for YMF thus enables the attainment of nine of the ten signposts of doing justice restoratively, as described by Zehr and Gohar (2003), suggesting that conferencing for YMF offers processes and outcomes which sit along the continuum of restorativeness. The applicability of restorative justice to conferencing for YMF is reinforced by Lansdell, Anderson, and King (2011), who stated that restorative justice mechanisms are more suitable for bushfire arson offences than the conventional criminal justice system.

Lansdell et al. (2011) suggested that a significant number of people, communities, or organisations may be victimised by YMF offences. These victims require access to a system which recognises them and enables them to communicate their story. The traditional criminal justice system isolates these victims from the justice process. Conversely, restorative justice mechanisms such as conferencing involves victims, whether individuals or communities, within the justice process. Although Lansdell et al. (2011) recognised that if a fire is extensive and causes harm to a significant number of people, not all victims will have the opportunity to engage with the offender during conferencing, victims' representatives may be utilised instead. Even though Lansdell et al. (2011) referred to only one subset of YMF, bushfire arson, the authors do provide an argument for the applicability of restorative justice mechanisms such as conferencing to YMF.

Restorative justice is a justice mechanism, not a theoretical framework. Nevertheless, it can be applied to frame the processes and values embedded within conferencing for YMF. To understand the theoretical frameworks underpinning restorative justice, Braithwaite and Pettit's (1992) republican theory of criminal justice and Braithwaite's (1989) theory of reintegrative shaming are presented. These theories provide conceptual frameworks which explain the mechanisms operant in restorative justice, and inform and justify conferencing for YMF as a restorative justice mechanism.

### **3.4. Republican Theory of Criminal Justice**

The republican theory of criminal justice is a normative theory which is compatible with, and which provides a philosophical underpinning of, restorative justice (von Holderstein Holtermann, n.d.; Wallis, Dennison, & Moore, 2015). Braithwaite and Pettit (1992) developed this theory to guide "normative thinking about criminal justice issues"

(Braithwaite & Pettit, 1992, p. 86). The theory arose out of the authors' concerns surrounding the resurgence of retributivism as the dominant penological paradigm in the 1980s and 1990s (Braithwaite & Pettit, 1992). Retributivism is a theory of punishment which is an end in itself. It advocates punishment proportional to the blameworthiness and harmfulness of the offence (Findlay, Odgers, & Yeo, 2009). However, retributivism is only concerned with the offence, punishment, and personal responsibility (Findlay et al., 2009). It does not consider the offender, their future behaviour, or other members of society (Bull, 2010). Further, despite re-emerging out of 'what works' rhetoric, little empirical evidence exists to determine whether retributivism is in fact, what works. Braithwaite and Pettit (1992) suggested that the return to retributivism increased 'tough on crime' rhetoric and heightened the oppressiveness of the criminal justice system. This interventionist approach impinged heavily on the liberty of citizens yet its effectiveness remained empirically unsupported. In addition to this concern, the era of new retributivism elicited criticisms regarding its inability to align with the emerging victimological paradigm, the shortcomings of the court system, a lack of professional accountability, and non-participative decision-making (Bull, 2010). It was from within this context that Braithwaite and Pettit (1992) developed a consequentialist, comprehensive republican theory of criminal justice to mitigate the limitations inherent within the prevailing retributivist paradigm.

The republican theory proposes that a criminal justice system should promote dominion by gradually reducing state intervention as far as possible without clear evidence that a decrement has led to an increase in crime (Braithwaite, 1992b). Dominion is defined as access to certain inalienable rights and the absence of, and protection against, interference of these rights by others (Braithwaite & Pettit, 1992). Dominion can be enhanced by a criminal justice system which prioritises: parsimony, where the onus of proof is placed on justifying



the implementation of interventions rather than their removal; the checking of power, where the power vested in criminal justice authorities is subject to accountability constraints to mitigate against prejudice and caprice; reprobation, where disapproval of the community and subsequent re-socialisation of the offender is prioritised; and reintegration, where the system pursues reintegration into the community and restoration for both the victim and offender (Braithwaite & Pettit, 1992).

The republican theory is comprehensive in that it was devised to inform policy formulation at all levels of the criminal justice system - the legislature, judiciary, and executive. It is consequentialist in orientation, evaluating the criminal justice system according to the consequences it promotes rather than the constraints it satisfies (Braithwaite & Pettit, 1992). It respects the rights and limits of all stakeholders by ensuring that the needs of the offender, victim, and community are met. Finally, it has practical application because it can be implemented incrementally to ensure continual monitoring and evaluation (Braithwaite & Pettit, 1992). The republican theory recognises crime as a public wrongdoing, as an act which not only imposes upon the dominion of the victim, but which undermines the values of civic society (Yankah, 2015). Crimes therefore impact upon the ability for each member of a community to share a common polity, and the ability for victims to access their due as citizens (Yankah, 2015). Punishment should not replicate these effects of crime, but promote dominion. As Braithwaite and Pettit (1992) stated, the imposition of punishment which is disproportionate and unlimited undermines the dominion of all. The promotion of dominion in punishment is achieved by reducing the likelihood the offender will re-offend (via incapacitation or rehabilitation) or reducing the likelihood the offender and others will commit crime (via deterrence and denunciation) (Ghosh, 1999). Ghosh (1999) stated that the main justification for punishment is reprobation or disapproval of the behaviour by others.

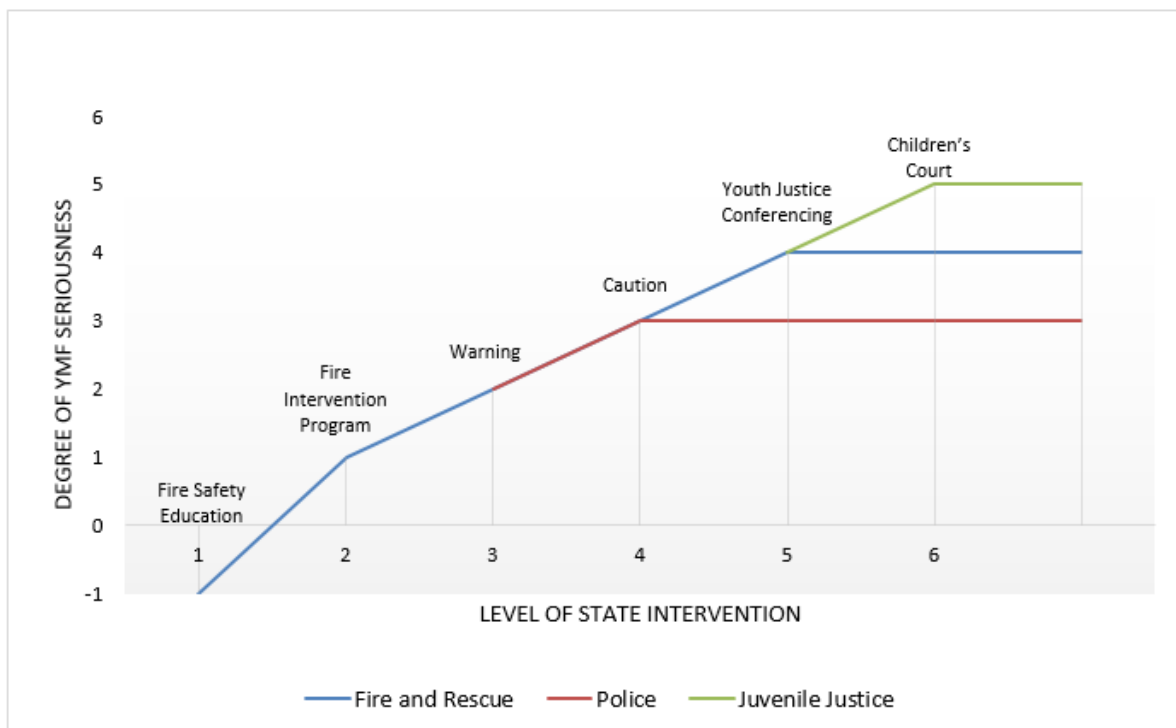
However, according to Braithwaite and Pettit (1992), the main objective of punishment is restoration. To achieve restoration, an offender must recognise the harm caused to the victim and thus the dominion of the victim (Pettit & Braithwaite, 1994). This recognition must not only be verbal, but involve reconciliation (Pettit & Braithwaite, 1994). Restoration also involves recompense which consists of restitution or reparation to the victim for harm caused (Pettit & Braithwaite, 1994). Finally, republican sentencing must provide reassurance that the victim and community will be returned to a level of assurance previously enjoyed (Pettit & Braithwaite, 1994).

Despite Braithwaite and Pettit's strong theoretical stance, the republican theory has faced numerous criticisms. First, Braithwaite and Pettit (1992) positioned republican theory as an alternative to new retributivism. However, the republican theory provides a philosophical underpinning of restorative justice, a process which maintains a relationship with retributivism (von Holderstein Holtermann, n.d.). As Daly (2016) stressed, retributivism and restorative justice are not juxtaposed. The promotion of dominion is consistent with harm preventionism, a principle achieved through retributivist practices (von Holderstein Holtermann, n.d.). Further, the conceptualisation of dominion has been criticised due to a lack of differentiation, or identification of the interrelationship, between individual and collective dominion (Walklate, 2008). Moreover, Walklate (2008) suggested that the problem of implementation, and the obstacles which must be overcome, are not explained, and that the theory fails to consider the fact that policy making is inextricably linked with public opinion (Walklate, 2008).

### 3.4.1. Republican Theory and Conferencing for YMF

Despite these criticisms, Braithwaite and Pettit's (1992) republican theory has the capacity to frame YMF as a crime and YMF prevention as restorative phenomena. YMF can be defined as a 'crime' where it threatens the person, property, or province of others, and thus diminishes dominion. However, in line with Braithwaite and Pettit's (1992) principle of parsimony, state intervention only increases as YMF becomes more serious, as displayed in Figure 3.

**Figure 3. Incremental state intervention**



Fire safety education is a primary prevention initiative, implemented to prevent the onset of YMF within the general population. It relies upon fire service led preventative education rather than state intervention as YMF has not yet occurred. This minimal degree of state intervention reflects a negligible level of seriousness, or at least, a level of seriousness

not yet detected. FRNSW's Juvenile Intervention and Fire Awareness Program exists as secondary prevention initiative, implemented after a young person has been identified as at-risk of engaging in YMF. Here, degree of state intervention is low because YMF is at a level of seriousness that constitutes engagement with fire services, but not police intervention. When YMF meets a level of seriousness which constitutes engagement with the police, NSW Police have the power of discretion to determine whether a warning or a caution is issued. The degree of seriousness of YMF will determine degree of police intervention. When the level of seriousness of YMF constitutes greater intervention than police diversion, the matter enters the realm of the juvenile justice system. Youth Justice Conferencing can be utilised as a police-led or court-ordered diversion and is implemented after a young person has been apprehended and has admitted guilt for YMF. Conferencing exists as a tertiary prevention initiative and is the highest level of state intervention which engages fire services. When the degree of seriousness of YMF is above that suitable for referral to conferencing, the matter is heard before the Children's Court. This is the highest level of state intervention, and thus deals with cases of YMF which are of the highest degree of seriousness. Overall, this incremental intervention aligns with the republican principles of parsimony and dominion, where each initiative minimises criminal justice intervention and maximises personal dominion in relation to the impact YMF has had on others. More repressive forms of state intervention are only justified by amount of dominion diminished (Braithwaite, 1989; Braithwaite & Pettit, 1992). The continuum of normative YMF prevention programs thus aligns with the concept of parsimony and incremental intervention and is an example of the synergy Braithwaite (1992b) promoted between state and communitarian social control.

Youth Justice Conferencing recognises that YMF impacts upon the dominion of the victim and the community, and aims to redress this through restorative means. Conferencing

for YMF is administered by government agencies and therefore acts as a form of state intervention. This state administration aligns with the presumption that dominion is a state priority and that an irreducible level of state intervention is necessary. Yet, it diverts the offender and victim away from more intrusive forms of state intervention which would otherwise impose upon dominion. Further, conferencing is a diversionary scheme, an informal mechanism of control governed by legislation. In accordance with the republican theory, conferencing utilises informal mechanisms of control empowered by the formalisation of state law (Braithwaite & Parker, 1999). This is important, particularly for a restorative justice program that depends upon the criminal justice system for just and impartial adjudication which renders diversion appropriate. It is also deemed necessary where input by professionals that is legislated and informed ensures due process rights are maintained and that proportionate, achievable sanctions are arranged (Youth Justice Services, 2008).

In addition, *voluntariness* governs participation in conferencing. Young people must give voluntary consent to participate in conferencing, and as such, the state enacts *non-domination* by *empowering* young people with the right to choose, albeit constrained by legislation, the level of state intervention which will be imposed. The effectiveness of this voluntariness is noted by Youth Justice Services (2008) who stated that young people referred to conferencing by a Magistrate do not have the same level of voluntariness as those referred by police, and consequently are less likely to achieve a successful outcome. Non-domination and empowerment are also recognised as pro-social skills that conferencing aims to instil in young people. The conferencing process thus facilitates the development of the skills it aims to elicit. *Non-domination* by the state is also practiced where conference convenors are drawn from the community and reflect diversity of age, gender, culture, and

background. Further, young people are encouraged to *actively participate* in discussions pertaining to their offending behaviour, to not only negotiate the means through which they will repair harm caused, but to restore the pre-offending relationship between the offender and victim (*restoration of damaged human relationships*). Finally, intrusive state intervention via court appearance only occurs where *dialogic regulation* fails due to an inability to agree upon, or failure to complete, an outcome plan. Increments of state intervention within conferencing therefore only occur when decrements fail.

Regardless of whether the main justification of republican punishment is reprobation (Ghosh, 1999) or restoration (Braithwaite & Petit, 1992), conferencing for YMF has the capacity to realise both objectives: reprobation, or *censure of the act*, by denouncing the offending behaviour via public disapproval and thus providing a moral education; and *restoration of property loss, damaged human relationships, community and/or the environment*, by providing a mechanism through which the offender can recognise harm caused, recompense the victim and community, and return the victim and community to a level of dominion previously enjoyed (*re-enactment of dominion*) (Pettit & Braithwaite, 1994).

Finally, the republican theory emphasises *participatory community* (Braithwaite, 2000a). Conferencing for YMF is participatory in nature because it involves community members such as the offender's family and the victim's family. Further, a convenor from the local community is utilised. Convenors are essentially the community face of conferencing. A firefighter from the local fire service which responded to the incident is also encouraged to attend as they represent a respected member of the young person's community or a representative of the victim.

However, conferencing for YMF is not entirely consistent with republican justice. Braithwaite and Parker (1999) stated that the republican theory requires socio-structural conditions conducive to crime to be addressed. While outcome plans resulting from conferencing may require completion of programs involving education, counselling, or drug and alcohol rehabilitation, the actual conference itself does not address the underlying structural causes of offending (Braithwaite, 1991). Further, restoration of balance between the offender and victim is only ideal where harmony existed before the commission of the crime. It is difficult to restore justice in a society epitomised by dominations arising from patriarchal structures, class inequalities, and Anglo-centric norms (Braithwaite & Parker, 1999). Braithwaite and Parker (1999) suggested that communities are naturally imbued by inequalities and that communitarian mechanisms such as conferencing may perpetuate the dominations inherent within these communities. Nevertheless, conferencing minimises power imbalances by utilising communities of care, rather than individual members. This, according to Braithwaite and Parker (1999), is an improvement over individualised justice. Thus, conferencing for YMF can be theoretically positioned as a mechanism which advances Braithwaite and Pettit's (1992) republican theory of criminal justice.

### **3.5. Reintegrative Shaming**

Braithwaite's theory of reintegrative shaming provides a theoretical framework which is similarly compatible with the republican theory of criminal justice and which explains the mechanisms operant in restorative justice. Although Braithwaite's name is almost synonymous with restorative justice (Friedrichs, 2008), Richards and Lee (2013) stressed the need to differentiate reintegrative shaming and restorative justice within diversionary conferencing rhetoric. Restorative justice was first implemented in the 1970s, years before

Braithwaite developed his theory of reintegrative shaming in 1989. Further, Braithwaite developed his theory simultaneously, but in isolation to, the emergence of Family Group Conferencing in New Zealand (Bull, 2010). Therefore, reintegrative shaming can be applied as a theoretical framework which explains how restorative justice principles can be attained through conferencing, but not as a theory which has informed the development of either.

Reintegrative shaming is a partial theory which Braithwaite (1989) suggested could explain variance in crime not otherwise accounted for within existing theories. Braithwaite (1989) integrated strain, learning, control, subcultural, labelling, and opportunity theories via reintegrative shaming to suggest that criminality is in the quality of the act (Braithwaite, 1992b). The theory propagates an active conception of the criminal and assumes that an offender possesses an awareness of their behaviour as deviant and decides to commit crime against a backdrop of societal pressures mediated by shaming (Braithwaite, 1989, p. 9). When societal and structural forces denounce certain acts, a cultural commitment to shaming is generated which influences how delinquency and crime are perceived and defined (Mongold & Edwards, 2014). According to Braithwaite (1989, p. 79), shaming informs the development of consciences, and intervention when consciences fail, ensuring legal and moral order maintains its relevance.

Braithwaite's (1989) reintegrative shaming is an explanatory theory of predatory crime in modern industrialised societies. Braithwaite (1989) defined shaming as all behaviour which, intentionally or otherwise, causes remorse in the individual and condemnation by others. Ahmed, Harris, Braithwaite, and Braithwaite (2001) suggested that this definition encompasses all processes which induce shame, including those which do not directly aim to elicit it. Ahmed et al. (2001) defined shame as the emotion which manifests from a violation of one's ethical identity shaped by a commitment to a set of norms. In an analysis of



emotional reactions to conferences, Ahmed et al. (2001) found that shame involved an internalisation of wrongdoing, concern at the disapproval of others, a negative self-perception, and concern about harm caused.

Shaming communicates disapproval, validating the wrongness of a behaviour. The management of shame informs the offender how to reclaim respectability and how to mitigate against shameful behaviour in the future (Ahmed et al., 2001). For this to occur, several assumptions must be met. First, that societal consensus has been reached about which behaviours should be shamed (that there is a cultural commitment to shaming). Second, that crime occurs because offenders are insulated from shame. Third, that reintegrative shaming will elicit an emotional response within the offender and the community that will stimulate freely chosen compliance. Fourth, that this compliance will prevent similar behaviour occurring in the future at both the individual and societal levels (Barnes et al., 2015; Braithwaite, 1989). Finally, just as shaming is needed when conscience fails, punishment is necessary where shaming fails (Braithwaite, 1989, p. 73). The validity of these assumptions rests on the notion that individuals possess the capacity for self-regulation and maintain an emotional connection or moral obligation towards the community (Barnes et al., 2015). Reintegrative shaming is therefore only attainable when an individual has been socialised and has the capacity to regulate their behaviour (Braithwaite, 1989).

Reintegrative shaming advances three key components: interdependency, where individuals are dependent upon others to achieve valued ends; communitarianism, a societal condition which emphasises group loyalty; and reintegrative shaming, where the expression of disapproval invokes remorse in the person being shamed (internal shaming) and condemnation of that behaviour by others (external shaming) (Braithwaite, 1989).

Interdependency propagates the notion that shame is more effective when it is practised by people significant to the offender rather than remote legal authorities (Braithwaite, 1989). Braithwaite (1989) suggested that reintegrative shaming occurs when social disapproval derives from relationships normally characterised by social approval. This occurs because people significant to the offender possess a more complex understanding of their total personality and are less likely to label them criminal due to an occurrence of anti-social behaviour (Braithwaite, 1989). This concept of interdependency mirrors Zehr and Gohar's (2003) description of particularity, where the restorative justice value of interconnectedness recognises diversity and respects individuality. However, this concept of interdependency is only achieved when a young person possesses a community of care, and these family members, relatives and/or significant others, attend conferencing. Further, the permanence and intensity of the interdependency, alongside the respect and obligation associated with it, influence the strength of interdependency, and thus the capacity for reintegrative shaming (Braithwaite, 1989).

The concept of communitarianism is only achieved when the geographical area or social collective which encompasses the offender and the victim, convenor and firefighter, is perceived as a 'community' by all involved. Communitarianism relies upon the assumptions that: social cohesiveness exists within society; there are shared norms and values; and members recognise the multitude of factors which precipitate offending and are capable of shaming certain behaviours rather than categorising individuals into 'crude master categories' (Braithwaite, 1989, p. 88). Yet, many offenders come from social environments which are fragmented, where interdependent relationships characterised by mutual trust and respect do not exist at an aggregate level, or where law-breaking behaviour is the norm. If the community from which the young person derives lacks cohesiveness, is characterised by

individualism rather than communitarianism, or shames law-abiding behaviour, reintegrative shaming is hindered. Braithwaite (1989) recognised this limitation, suggesting that a lack of social cohesiveness caused by cultural heterogeneity only undermines reintegrative shaming when it is applied to those behaviours for which there is a lack of cross-cultural consensus. The theory thus recognises that cultural homogeneity, and thus social cohesiveness and a sense of community, are more conducive to reintegrative shaming than the contrary.

Finally, reintegrative shaming relies on the notion that a person's behaviour should be denounced rather than their character, and that denunciation is most effective when it comes from a person significant to the offender (Hayes & Daly, 2003). The aim of reintegrative shaming is to disapprove of the behaviour in a non-degrading manner without disapproving or labelling the person. Shaming and reintegration occur sequentially. Shaming denounces the behaviour and is followed by efforts to reintegrate the offender back into the community (Braithwaite, 1989). Reintegrative shaming is superior to, but not less potent than, stigmatisation. Reintegration and stigmatisation are not dichotomous but distinct entities which may occur simultaneously (Ahmed et al., 2001). What is important is that reintegrative shaming outweighs shaming which stigmatises and that shame is communicated within a continuum of respect and is terminated by forgiveness and the maintenance of bonds rather than persistent feelings of shame (Braithwaite, 1989; Bull, 2010). Importantly, shaming is only effective when it is reintegrative and executed by those the offender respects (Ahmed et al., 2001). It is therefore not the emergence of shame which is important, but the way in which shame is constructively managed.

Despite its strong theoretical underpinnings, the theory of reintegrative shaming has some limitations. Weatherburn, McGrath, and Bartels (2012) purported that empirical support for reintegrative shaming has weakened over time. The authors suggested that research into

the stigmatising effects of contact with the criminal justice system is limited by small sample sizes, selection bias, selective attrition, ambiguous comparison groups, and spurious conclusions (Weatherburn et al., 2012, p. 799). Weatherburn et al. (2012) thus proposed that there was little evidence to suggest reintegrative shaming mechanisms such as conferencing are more effective at reducing recidivism than court. Harris and Maruna (2008) believed that Braithwaite failed to provide an analysis of what shame is or how it works, instead referring to shame-related emotions such as fear of disapproval and bad conscience. Further, the relationship between shame and the emotions it produces is complicated (Harris & Maruna, 2008) and there is little evidence to support the notion that shame engenders remorse (Maxwell & Morris, 2002). In fact, shame may be interpreted as stigmatising by the offender regardless of the intent of others (Morris, 2002). Further, Prichard (2002) found that Braithwaite failed to consider the effect shaming may have on parents/guardians and the parent-child relationship. Prichard (2002) conducted a qualitative observation of 34 conferences conducted in Tasmania and found that conferencing may in fact stigmatise parents/guardians, impacting upon their parenting abilities, and thus the parent-child relationship, ultimately worsening the conditions to which the young person will return.

### **3.5.1. Reintegrative Shaming and Conferencing for YMF**

Irrespective of these limitations, the application of reintegrative shaming to YMF and its prevention aids comprehension of this program as a restorative justice mechanism. YMF is a behaviour which is condemned by others. Feldberg and Lemmon (2012) suggested that there is a deep sense of shame attached to misuse of fire and that young people who misuse fire are not deemed high status criminals amongst their delinquent peers. YMF may therefore be a behaviour shamed by both pro-social and anti-social segments of society.

Conferencing for YMF provides an avenue through which *reintegrative shaming* can be practiced. Braithwaite proposed that shaming manifests from all social processes, not just verbal expression, and that shaming may be most effective when communicated indirectly (Harris & Maruna, 2008). Discussions surrounding the consequences of the offence and harm caused by people who are not aware of shaming or its significance may still act as a reintegrative shaming mechanism where the offender feels *remorse over injustice* and the behaviour is condemned by others. In fact, Ahmed et al. (2001, p. 44) suggested that because referral to conferencing requires admittance of guilt and voluntary participation, a young offender has already accepted responsibility for their actions (*accountability*), has *acknowledged the dominion impinged* by their behaviour, and has freely chosen to repair harm caused. Shaming can therefore be practiced by the very fact conferencing has been engaged (Ahmed et al., 2001). Further, conferencing is a mechanism which diverts young offenders away from the court, towards more *communitarianism* means. As Braithwaite (1989, p. 97) stated, “shaming by the state is less potent than shaming by proximate communities”. This is because minority groups may not identify with the values of the majority, meaning shame imposed by the courts will be less effective than shame imposed by each respective minority group. Conferencing offers a means through which communities can directly engage with offenders to ensure shaming is culturally legitimate and thus effective.

Reintegrative shaming is achieved by placing the offender’s behaviour and its effect on the victim and community at the centre of the discussion rather than the offender themselves. Firefighters provide information pertaining to the consequences of the young person’s actions. The ensuing discussion aims to denounce the behaviour within a culture of *mutual respect*, rather than denounce or punish the offender. This process aims to evoke *remorse* in the offender, but also lead to *emotional restoration*, that is, shaming which is

reintegrative. When shame becomes attached to YMF, the young person is held *accountable* for their behaviour and maintains a desire to *restore their sense of duty as a citizen*.

Conferencing for YMF thus acts as a *catalyst for cognitive and behavioural change* which ultimately *prevents the likelihood of future injustice*.

Finally, conferencing for YMF is a program which involves input from the community. Conference convenors are drawn from the Local Area Command, the offender's family are invited to attend, the victim and their support network are encouraged to participate, and local firefighters, preferably involved in the suppression of the fire caused by the young person, are invited to attend. By drawing people from the community in which the young person resides, norms and values are likely to be shared. Braithwaite's (2000) theory of attachment to agents of conventional morality suggests that young people are more likely to uphold the rules and values of people they are attached to, such as their parents, teachers, or community members, than those they do not know or respect. Theoretically, the engagement of agents of conventional morality within conferencing for YMF should offer a mechanism through which reintegrative shaming can occur.

The theory of reintegrative shaming also brings to light some limitations of conferencing for YMF. When YMF as a symptom of psychopathology manifests from an inability to self-regulate emotions and behaviour (Feldberg & Lemmon, 2012), reintegrative shaming is not a suitable form of intervention. It is for this reason that reintegrative shaming, and thus conferencing for YMF, is applicable to the normal developmental form of YMF rather than that which manifests as a symptom of psychopathology.

For conferencing to be conducive to reintegrative shaming, interdependencies must exist between the young person and support person/s present during the conference. The assumption that interdependency exists however, particularly within a population of young

people who misuse fire, is somewhat contentious given evidence which correlates YMF with familial disruption (Kolko & Kazdin, 1986; Lambie & Randell, 2011; Root et al., 2008; Slavkin & Fineman, 2000; Ward, 2005; Yarnell, 1940). Although familial disruption is more likely to influence YMF which emerges as a symptom of psychopathology, such factors may also effect YMF which manifests as a normal developmental behaviour. Existing literature consistently suggests that as young people mature, familial attachments weaken (Braithwaite, 1989). Tenuous interdependencies may thus exist between young people and their communities of care. There is therefore evidence to suggest that young people who attend conferencing for YMF may not have interdependent relationships, or where they do, these may be weak. Reintegrative shaming may therefore be difficult to attain within conferences convened for young people who commit YMF.

Further, Braithwaite (1989) suggested that the desire to end shame and be reintegrated into the community may be so strong as to elicit false confessions. This may prove problematic where the suitability assessment for conferencing for YMF requires an admission of guilt for a fire-related offence. Further, reintegrative shaming highlights the importance of visible shaming so that the collective conscience can be moulded to identify a behaviour as wrong (Braithwaite, 1989). Although the media has reported on conferencing for YMF in a few instances, there is little discourse, both in the public and academic realms, pertaining to the program. There is thus a lack of visibility.

Moreover, reintegrative shaming advocates informal social controls for their effect on reducing crime over and above formal criminal justice mechanisms. However, conferencing for YMF is a juvenile justice program. Although it exists as a diversionary mechanism, some researchers suggest that it is simply an extension of the criminal justice system which produces net-widening effects. The Strategic Review of the NSW Juvenile Justice System

highlighted the contradiction inherent in conferencing employed as a diversionary mechanism (Murphy et al., 2010, para. 19). The report stated that once a young person receives conferencing they are effectively under the domain of juvenile justice (Murphy et al., 2010). In conferencing for YMF, it is not the community who intervenes to prevent misuse of fire by young people, but the government, whether that be through police or the courts.

Finally, not all conferences achieve what is intended because each conference is unique (Bull, 2010). Conferences deviate according to the historical, political, cultural, and social context of each participant, as well as the context of the conference itself. Although communitarianism is perceived as a means through which an offender can be reintegrated back into the community in a culturally sensitive manner, the experiences, expectations, and orientations of the participants' influence whether the stated aims of restoration and reintegration are achieved (Bull, 2010). For example, Daly (2002) suggested that variations in conferencing outcomes may result from belligerent, unapologetic, angry, or unmoved offenders, while Hayes (2006) believed that conferencing may stigmatise and censure. As Harris (2006) stated, the relationship between reintegration, shaming, and emotion may be more complicated than predicted. Whether conferencing for YMF does in fact achieve reintegrative shaming is therefore a contentious issue.

### **3.6. Conclusion**

Conferencing for YMF encompasses restorative processes and reintegrative shaming mechanisms to enhance the republican notion of dominion. Conferencing for YMF facilitates the attainment of most of the constraining, maximising, and emergent standards Braithwaite (2002) prescribed as necessary for a program to be restorative. The program also meets nine of the ten signposts of doing justice restoratively, as listed by Zehr and Gohar (2003).



Conferencing for YMF thus theoretically exists as a restorative justice mechanism. This premise is supported by Braithwaite and Pettit's republican theory of criminal justice and Braithwaite's theory of reintegrative shaming. These theories frame YMF as a behaviour which diminishes dominion and has the potential to cause harm. The frameworks indicate that conferencing for YMF has the theoretical capacity to create a space where a loss of dominion can be acknowledged and reintegrative shaming can be achieved. Although it must be acknowledged that conferencing for YMF acts as a catalyst for behavioural change and does not, in isolation, have the capacity to reduce future YMF, the tertiary prevention program has the potential to stimulate cognitive and behavioural change in young people, and thus a reduction in YMF, while remaining restorative in nature.

Despite the applicability of Braithwaite and Pettit's (1992) republican theory of criminal justice, Braithwaite's (1989) theory of reintegrative shaming, and thus restorative justice, limitations within these frameworks impede a full and comprehensive theoretical explanation of Youth Justice Conferencing for YMF. To fill these theoretical voids, the program has also been analysed as a fire prevention mechanism using the principles of social learning theory and from a risk reduction perspective drawing from the field of child-centred disaster risk reduction.

## **Chapter 4: Theory - Part 2**

### **4.1. Introduction**

Although Youth Justice Conferencing for YMF may be analysed from a restorative justice perspective, the program also maintains a commitment to fire prevention and risk reduction principles. It is therefore proposed that two additional theoretical frameworks be employed to inform the mechanisms operating within conferencing for YMF. As a fire prevention initiative, conferencing for YMF will be explained and justified by social learning theory, as theorised by Sears and Bandura (section 4.2). As a risk reduction mechanism, conferencing for YMF will be explained and justified from a child-centred disaster risk reduction perspective (section 4.3). It will be concluded that the frameworks of restorative justice, fire prevention, and risk reduction collectively provide a theoretical scaffold that explains and justifies conferencing for YMF as a unique tertiary prevention initiative (section 4.4).

### **4.2. Fire Prevention**

The Victorian Bushfires Royal Commission (Parliament of Victoria, 2009) stated that the most effective way to reduce the risk and trauma associated with fire is to prevent fire from starting. Fire requires oxygen, combustible fuel, and a form of heat ignition (FRNSW, 2014b). Fire prevention efforts implement mechanisms which reduce the likelihood of these three elements of fire co-occurring. Because the presence of oxygen is almost always unmitigable, the most common fire prevention efforts include the removal or reduction of combustible fuel and the removal or restriction of the use of ignition sources. In these instances, efforts are usually targeted towards reducing the risk and incidence of fires ignited

by human activity. Historically, the prevention of illegitimate fire behaviour has been informed by theoretical frameworks derived from the fields of psychiatry and psychology. This is because misuse of fire as a symptom of psychopathology has attracted interest from academics and practitioners from around the world. However, misuse of fire also manifests as a normal developmental behaviour, yet less interest and thus fewer theoretical frameworks exist to inform this normative phenomenon. Nevertheless, one theory has been employed within numerous studies to explain misuse of fire by young people as a product of normal maturation – social learning theory. Social learning theory has therefore been applied to explain normal developmental YMF and to justify conferencing for YMF as a mechanism which breaks the human link between combustible fuels and forms of heat ignition.

Both historical and contemporary literature suggest that YMF which manifests as a normal developmental behaviour may be a product of social learning (Corcoran, Townsley, Wickes, McGee, Zanhov, & Li, 2012; Kolko & Kazdin, 1986). YMF was first correlated with learned acts of indirect aggression with the advent of Burgess and Akers' theory of social learning in the mid-1960s (Williams, 2005). Since this time, it has been suggested that social learning theory explicitly identifies the link between the environment and YMF and thus offers a good theoretical framework through which YMF and its prevention may be analysed (Gannon, 2016).

Social learning theory derives predominantly from two different theorists, Sears and Bandura. Sears' social learning theory suggested that children learn to internalise values, attitudes, and behaviours through socialisation (Grusec, 1992). According to Sears, a child will learn appropriate action and responses through reinforcement (positive or negative) and punishment (positive or negative), where what is considered appropriate will change according to the child's level of maturation (Grusec, 1992). Importantly, Sears' identified the

correlation between parental warmth and positive discipline with the internalisation of acceptable values, attitudes, and behaviours. Despite Sears' contribution to understanding social learning, his theory simplified the process of maturation of an individual, and failed to consider critical stages of development which coincide with biological processes (Grusec, 1992). Bandura's social learning theory (later social cognitive theory) shifted focus from the stimulus-response framework of Sears to an information-processing framework. Bandura (1971) believed that psychological functioning was a product of the reciprocal interaction between behaviour and its controlling conditions. He suggested that individuals abstract and integrate information learned through various modes of social interaction including observational learning (modelling), self-regulation (internalisation of standards), self-efficacy (perception of one's own characteristics and abilities which shapes one's objectives and determines degree of ambition to achieve those objectives), and reciprocal determinism (the bi-directional causal structure of cognitive, behavioural, and environmental factors) (Bandura, 1971). According to Bandura (1971), behaviour is regulated by anticipated consequences of prospective actions. Bandura suggested that cognitive capacities change in relation to experience, maturation, and additional information gained through social interaction (Grusec, 1992). Despite Bandura's interminable influence on behavioural psychology, social learning theory failed to consider the influence of age on social learning processes (Grusec, 1992).

Despite these limitations, social learning theory has been applied to explain YMF as a behaviour learned through social interaction. Stadolnik (2000) proposed that modelling, direct experience, and the availability of models and incendiary materials, mould one's fire behavioural repertoire. Vreeland and Levin believed that the outcome of YMF, the fire and the emergency services response, acts as an immediate sensory reinforcement for the

behaviour (Gannon, 2016). More recently, Corcoran et al. (2012) theorised that YMF may be reinforced through peer support and incidents of undetected fires. Such differential reinforcement is necessary as it determines whether certain behaviours will be reinforced and added to one's behavioural repertoire, or punished and thus not repeated. If, as Bandura (1971) stated, behaviour is controlled by self-regulation and external influences, and self-regulation varies with mood states, then YMF may be the product of social learning, external stressors, and an inability to self-regulate behaviour due to transient or entrenched negative emotions. Furthermore, Bandura (1971) stated that the internalisation of personal standards arises from the social environment. Reactions of significant others towards certain behaviours enables the construction of standards. If inconsistent and harsh discipline, alongside negative responses to fire experimentation, are correlated with YMF, then this behaviour may be a product of a negative response to violation of standards.

Social learning theory as applied by Sears and Bandura is single factor theory and thus, limited in scope and application. Nevertheless, several multifactor theories have been developed which utilise social learning theory as one of a core number of tenets. One of the most widely referenced conceptual, multivariate, socio-psychological frameworks for YMF was developed in 1980 by Fineman (Stadolnik, 2000). Fineman's dynamic-behavioural theory considered personality and individual, familial and societal, and environmental influences on behaviour, and suggested that these determinants predispose a young person towards maladaptive and antisocial acts (Stadolnik, 2000). Individual level factors included demographic, physical, emotional, motivational, and psychiatric, while societal level factors included family, peers, socioeconomic status, and oppressive or dysfunctional social environments (Horley & Bowlby, 2011; Mastrangelo, 2012). Environmental factors, such as social learning via modelling and imitation, familial disruption, stress, emotional distress, and

peer pressure, may encourage and reinforce YMF behaviour (Horley & Bowlby, 2011). Fineman later revised this theory to include dynamic historical factors which predispose a young person towards antisocial behaviour, historical environmental factors which teach and reinforce misuse of fire, and immediate environmental contingencies which encourage misuse of fire (Binstock, 2000). Despite the multiaxial approach, this theory failed to explain why only some young people succumb to YMF, or to differentiate between those young people who set fires and those who commit other antisocial or deviant acts. Nevertheless, Kolko and Kazdin drew from Fineman's model to distinguish three domains of YMF risk factors: early modelling, personal repertoire, and parental and familial factors (Mastrangelo, 2012). Kolko and Kazdin (1986) defined early modelling as learning experiences and cues developed around fire, direct experiences with fire, and access to incendiary devices. Personal repertoire included cognitive factors such as lack of fire knowledge and poor fire safety skills, behavioural factors such as social skills and antisocial behaviour, and motivational components such as anxiety and distress. Parental and familial influences included lack of supervision, parental neglect, pathology, or stressful incidents (Mastrangelo, 2012).

There exists some empirical evidence to support the application of social learning theory to YMF (Corcoran et al., 2012). Rice and Harris (1991) conducted secondary data analysis of 243 adult male psychiatric patient files from a maximum-security division of a psychiatric institution in the US. Analysis revealed that patients who misused fire were more likely to come from families with a history of misuse of fire. Gannon and Barrowcliffe (2012) conducted a self-report study of 158 adults and adolescents from the UK and found that, of the 18 (11.4%) who self-reported YMF, 10 (56%) reported having observed a family member previously setting a fire. Ducat, McEwan, and Ogloff (2013) conducted an analysis of court

files pertaining to 207 adult offenders convicted of fire-related offences by higher courts in Victoria, Australia, between 2004 and 2009. The researchers found that the difference between fire-related offenders and non-fire-related offenders may occur because people who misuse fire are more likely to have predisposing experiences with fire which have formed cognitions and a behavioural repertoire involving the use of fire. These individuals are thus more likely to use fire as part of their offending repertoire than those who have not had fire-related experiences (Ducat et al., 2013a). Similarly, O’Ciardha, Tyler, and Gannon (2015) conducted a study of 565 adult males and females incarcerated in 19 prisons and 12 mixed gender mental health establishments. Self-report measures revealed that identification with fire (fire is essential to functioning), serious fire interest (excitement around dangerous fires), perceptions of fire safety (lack of fire safety knowledge and minimisation of the importance of fire safety), and the perception that misuse of fire is normal were statistically significant indicators that a participant had misused fire (O’Ciardha et al., 2015). Although these studies drew data from samples of adults, such empirical evidence indicates that cognitions and behavioural repertoires developed through direct experience and/or informed by a lack of fire knowledge have been correlated with misuse of fire.

Empirical evidence in support of the validity and applicability of social learning theory to misuse of fire is matched by theoretical critiques within existing literature. Social learning theory propagates the notion that behavioural cognitions and repertoires are learned through vicarious, symbolic, and self-regulatory processes (Bandura, 1971). According to Wortley et al. (2008), this tenet fails to consider innate behavioural tendencies which may exist prior to social interactions and which may lead to social interactions which facilitate the realisation of these tendencies. Further, when employed to explain YMF specifically, components such as the role fire-related experiences and reinforcement play in YMF have

been overlooked (Dickens, Doley, & Gannon, 2016). Moreover, in a study of 12 young people from Chicago, US, who had misused fire, Davis (2014) found no statistically significant association between YMF and the key tenets of social learning theory - differential association or differential enforcement. Although these findings apply Akers' criminological adaptation of the theory, and are limited by the operationalisation of the tenets of the theory and the utilisation of quantitative analysis on a small sample, they do highlight the need to investigate the empirical applicability of social learning theory to YMF.

#### **4.2.1. Fire Prevention and Conferencing for YMF**

Despite these criticisms, social learning theory has the capacity to frame conferencing for YMF as a mechanism which breaks the human link between combustible fuel and forms of heat ignition. In fact, FRNSW, in conjunction with the NSW Police Force and the NSW Rural Fire Service, identified fire safety education delivered through firefighter collaboration with JJNSW as a fire prevention strategy (NSW Police Force, n.d.). If YMF is the product of social learning, and manifests from learned experiences, direct experiences, access to incendiary materials, a lack of fire knowledge, and poor fire safety skills, then conferencing for YMF may act as a mechanism through which these risk factors can be mitigated. In fact, nearly every YMF intervention program which currently exists incorporates some social learning components (Bell, 2016). Bell (2016) premised that this wide-ranging and persistent utilisation implies that interventions which consider the mechanisms operant in social learning theory will be most effective in reducing misuse of fire. Johnson, Ronan, Johnston, and Peace (2014) suggested that child-centred disaster risk reduction programs, like fire safety education, should incorporate social learning components. The application of social learning theory to YMF prevention is thus theoretically valid.



Conferencing for YMF assumes that misuse of fire is normal and can be addressed through the provision of *fire safety education* delivered within the conference and/or as a component of the outcome plan. This education aims to *advance the young person's fire knowledge* and *improve their fire safety skills*. Education is important because behaviour is regulated by anticipated consequences. If a young person does not have the required level of fire knowledge to assess the *anticipated consequences of prospective misuse of fire*, they cannot accurately regulate their behaviour to the conditions. Fire safety education is therefore necessary to advance fire knowledge and skills so that a young person has the capacity to accurately assess the potential consequences of their behaviour and amend anticipated behaviour to the prevailing conditions. When conditions are conducive to YMF in the future, a young person will thus have the capacity to engage in *symbolic learning*, the ability to foresee potential consequences of one's actions and alter behaviour accordingly (Bandura, 1971).

Changes in fire knowledge and skills thus have the potential to alter *fire cognitions* and *behavioural repertoire*. These changes are likely to emerge due to *adaptive capacity*, the ability of a system to change with the environment. From a social learning perspective, adaptive capacity refers to cognitive capacity to adapt to additional information gained through social interaction (Bandura, 1971). When these new competencies are fuelled by emotional factors, such as remorse for past behaviour or the desire to please significant others, behavioural change will result. Adaptive capacity therefore refers to the capacity to adapt one's cognitions and behavioural repertoire based on new informational input. New informational input may include information derived from the emotional responses of others. Bandura (1971) stated that learning occurs through *vicarious conditioning* when the emotional responses of others arouse reactions in the observer. Here, events "take on

evocative properties through association with emotions aroused in observers by affective experiences of others” (Bandura, 1971, p. 14). Conferencing for YMF includes a young offender, their community of care, the victim and their support network, as well as any other stakeholders of the offence, such as a police officer, a victim’s representative, or a respected member of the community. These participants are given the opportunity to inform the young person about the effects the offending behaviour has had on their lives. The aim of this participatory approach is to convey to the young offender the many ways in which their behaviour has affected others and to evoke *remorse* in the young person for harm caused. Participants’ emotional responses to the offence provide the impetus for *vicarious conditioning* of the young person. Conferencing for YMF thus aims to stimulate *cognitive and behavioural change* via emotive responses to unsafe fire behaviour to begin the process towards *safe fire behaviour*. However, the relationship between the young person and the ‘sufferer’ will determine the effectiveness of vicarious conditioning. Someone whom the young person holds regard for and thus *respects*, such as a member of their community of care, is likely to have a greater conditioning influence than an unknown participant.

Further, Sears theorised that appropriate action and responses are learned through reinforcement (positive or negative) and punishment (positive or negative). Although restorative rather than punitive in nature, conferencing for YMF is utilised as a sanction when a young person has committed a fire-related offence. Referral to conferencing for YMF is a sanction directly experienced after a given action. In fact, it is an *intervention particularised to the individual’s offending*, an approach proposed by Bell (2016) to be most effective in reducing misuse of fire. However, for conferencing to proceed, a young person must admit guilt, and thus accept responsibility, for their fire-related offence. *Offender responsabilisation* may therefore occur via *learning by direct experience* when the punishing consequence of

referral to conferencing is directly associated with YMF, requiring the young person to accept responsibility for their misuse of fire. However, for associations between behaviour and its consequences to be made, the sanction must occur as soon as possible after the behaviour (Bandura, 1971). Although conferences are to be held within six weeks of referral (JJNSW, 2012), this period may not enable the degree of immediacy required for associations to be made between behaviour and consequence. Nevertheless, conferencing enables a response which is more immediate than traditional criminal justice system responses such as court, meaning conferencing may facilitate learning by direct experience more so than other criminal justice responses.

Conferencing requires the young person to relinquish some dominion (*negative punishment*) to participate in the conference and to complete outcome plan tasks. It also facilitates the censure of anti-social behaviour (*positive punishment*). The process rewards the young person for engaging in the conference and completing their outcome plan tasks by diverting them away from further state intervention (*negative reinforcement*). Conferencing for YMF may also elicit restorative punishment. *Restorative punishment* refers to pain inflicted upon the self after accepting responsibility for one's behaviour (Gavrielides, 2013). *Remorse*, which cannot be imposed and is thus an emergent standard (Braithwaite, 2002), is an emotional response correlated with internal shaming and self-inflicted constructive pain. It is an emotional response which is cathartic and transformative (Gavrielides, 2013). The conferencing process thus has the capacity to censure YMF to *change fire-related cognitions and behaviours*.

Conferencing for YMF involves *firefighter participation*. Firefighters are regarded as members of the community who maintain expertise, credibility, and authority. Firefighters act as models for young people, discussing their direct experiences of actual or potential harm

caused by YMF. The purpose of *firefighter participation* is to instigate *vicarious learning*, where the young person is conditioned by the direct experiences of the firefighter. The effectiveness of vicarious learning is however, influenced by the relationship between the ‘observer and the sufferer’ (Bandura, 1971). Bandura (1971) stated that sensitivities to the adversity of others is heightened when experienced by those they either know or depend upon. If young people hold some regard for firefighters (*regard for model*), then their portrayal of the consequences of YMF are more likely to manifest into vicarious learned experiences than when these experiences are conveyed by strangers or those with whom the young person holds no regard. In addition, Bandura (1971) proposed that the *negative reactions of significant others* towards certain behaviours enables the construction of standards. *Denunciation of the behaviour* is a core component of conferencing for YMF as censure of the act by *respected* others enhances the likelihood of *reintegrative shaming* which in turn, generates an internalisation of pro-social standards (*self-regulation*), reducing the likelihood the behaviour will be repeated in the future (*reduced recidivism*).

Social learning theory suggests that YMF may be the product of learned experiences and cues developed around fire, direct experiences with fire, access to incendiary materials, a lack of fire knowledge, and poor fire safety skills. Social learning theory indicates that misuse of fire may be redressed through the utilisation of an offence specific intervention which facilitates the advancement of fire knowledge and improvement of fire safety skills to stimulate adaptation and alter YMF related cognitions and behaviours. Firefighter participation in conferencing has the potential to instigate vicarious learning, while the participatory nature of the conference enables portrayal of harm caused and provides conditions conducive to evoking remorse, and thus vicarious conditioning. Further, conferencing for YMF engages positive and negative forms of punishment and negative

reinforcement to censure YMF and reward participation in, and compliance with, conferencing to further entrench safe fire behaviour. Finally, the program facilitates denunciation of YMF by significant others to instigate an internalisation of pro-social standards, the ability to engage in symbolic learning, and subsequent changes in fire-related cognitions and behaviour. YMF as a manifestation of social learning can therefore be reduced through the utilisation of conferencing for YMF because the program has the theoretical capacity to break the human link between combustible fuel and forms of heat ignition. The program theoretically exists as a fire prevention mechanism when misuse of fire manifests from normal developmental behaviour.

### **4.3. Risk Reduction<sup>1</sup>**

Risk reduction refers to measures that mitigate the frequency or intensity of losses (International Risk Management Institute, 2016). Disaster risk reduction narrows this scope, referring to systematic efforts to analyse and reduce the causal factors of disasters associated with natural and manmade hazards (United Nations Office for Disaster Risk Reduction, 2016). Child-centred disaster risk reduction tailors these efforts towards children and young people (Towers et al., 2014). Mechanisms employed include disaster resilience education, school emergency management, and community-based programming (Towers et al., 2014). The primary objective of CC-DRR is to enhance knowledge and strengthen skills in children and young people so they understand disaster risk and can participate in mitigating risk (Towers et al., 2014).

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<sup>1</sup> The following is an excerpt from original work derived from the research reported in this thesis, published prior to submission of the thesis (emphasis added). For full-text, see Pooley (2017b).

CC-DRR is a relatively new concept, yet the body of knowledge has grown considerably in recent years (Ronan et al., 2016). The three main pillars of disaster risk reduction, and thus CC-DRR, are:

- prevention and mitigation
- preparedness
- response and early recovery (United Nations Children’s Fund 2016).

The importance of this comprehensive and integrated approach was highlighted in the Yokohama Message in 1994 (International Decade for Natural Disaster Reduction, 1994). Since that time, education programs have been increasingly used around the world to prepare children and young people for disasters associated with natural and manmade hazards, to prevent or mitigate the risks and consequences associated with these hazards, and to enhance response and recovery by engendering resilience (Ronan & Towers, 2014). Such programs have been found to improve preparedness, perception of risk, awareness of appropriate safety behaviours, and resilience (Ronan & Towers, 2014).

#### **4.3.1. CC-DRR and Conferencing for YMF**

Conferencing for YMF can be positioned as a CC-DRR mechanism. *Firefighter participation* in conferencing in NSW is administered by the FRNSW Community Safety Directorate. The objective of the Directorate is to manage risk, on and off an incident ground, through risk management within strategic policy, management responsibilities, and operational functions (FRNSW, 2016a). One mechanism implemented to reduce risk, improve safety, and protect the community is conferencing for YMF (FRNSW, 2016a). Where CC-DRR manages risk associated with manmade hazards like YMF (and conferencing

for YMF aims to manage risk), the program can be strategically positioned as a CC-DRR mechanism.

The applicability of CC-DRR to conferencing is supported through a mutual aspiration to attain Article 6 Convention on the Rights of the Child that proposes the State has an obligation to ensure the survival and development of young people (United Nations, 1989). CC-DRR uses a multidisciplinary approach and draws from the fields of health, urban planning, public policy, education, and emergency management within government and non-government realms (Tatebe & Mutch 2015). In line with this approach, conferencing for YMF is facilitated by two arms of state government; FRNSW and JJNSW. Both organisations have legislative obligations to prevent YMF from occurring. In addition, conferencing brings stakeholders of YMF together. These stakeholders include the offender and their support group, the victim(s) and their support group, a firefighter, and other members of the community affected by the offence (s47 YOA). Conferencing for YMF thus involves state government intervention alongside *community participation* to provide fire safety education to young people and their families.

CC-DRR prioritises the education and agency of young people (Plan International 2010). Plan International developed a toolkit for CC-DRR that describes best practice as that which unpacks risk, making it visible and transparent, so that young people have the capacity to make informed decisions about how much risk to accept and how it can be managed. Ronan and Towers (2014, p. 1) suggest that CC-DRR helps young people “connect the physical world and science with the social world and human factors”. Conferencing for YMF theoretically attains this benchmark. It provides young people with *access to knowledge and information* through *fire safety education* that unpacks and makes transparent the risks of

YMF. Fire safety education provided by firefighters in the context of conferencing aims to *manage fire risk* by:

- providing fire safety advice to young people and their families to improve preparedness
- informing young people about the consequences of their behaviour that has implications for response and recovery
- *reducing the likelihood of re-offending* and, thus, preventing and *mitigating the risk* of YMF.

Fire safety education aims to provide young people with the knowledge to make informed decisions about *safe fire behaviour* and how fire risk can be managed.

CC-DRR promotes the *active participation* of young people in understanding and managing the risks associated with disasters. This tenet aligns with Article 12 Convention on the Rights of the Child that states a young person has the right to express their opinion and to have that opinion considered in any matter or procedure affecting them (United Nations, 1989). Conferencing for YMF is led by an adult who mediates discussion between all participants (s60 *YOA*). Although conferencing for YMF is an adult-initiated and mediated program, decision-making is shared with young people. In fact, young people maintain the right to reject the whole, or any part, of their outcome plan regardless of the views of other conference participants (s52(4) *YOA*). This power of veto gives young people the right to express their opinion and have that opinion taken into account. Further, outcome plans are an obligatory component of conferencing as they provide the mechanism through which young people repair harm caused by their offence and mitigate the likelihood of similar harm occurring in the future. Outcome plans provide a process through which young people can *take direct action* to reduce the risks associated with their own YMF. As a CC-DRR



mechanism, conferencing for YMF is an adult-initiated mechanism which vests decision-making power in young people. It aligns with the sixth rung on Hart's (1992) ladder of participation and is an example of what Hart described as true child participation.

The theoretical alignment of CC-DRR and conferencing for YMF is supported by shared *respect*. The CC-DRR Toolkit (Plan International, 2010) states that the views of children and young people should be respected to ensure full participation and engagement with CC-DRR programs. This reliance on respect is shared by conferencing for YMF. One aim of conferencing for YMF is to disapprove of offending behaviour within a culture of respect without disapproving of, or punishing, the young offender (Harris, 2001). The role of conference participants is to support the young offender through the conferencing process, to elicit shame associated with the offending behaviour, not the self (*reintegrative shaming*) (Harris, 2001). Both CC-DRR and conferencing for YMF enable the sharing of young people's opinions and perspectives alongside mutual respect between young people and other participants.

Plan International (2010) listed two desired outcomes of CC-DRR programs: democratic outcomes and developmental outcomes. Democratic outcomes include citizenship change where young people become aware of their rights and use this power to participate in decision-making processes, and institutional or systems change, where young people are involved in the process of decision-making and are accountable for disaster management. *Democratic processes* that give young people the *power to create opportunities* are used within conferencing for YMF to achieve democratic outcomes. Young people must give *voluntary* consent to participate in conferencing (s36 YOA). If young people decide to participate, they are actively involved in the decision-making process of their outcome plan. Young people make suggestions as to the type of tasks they can complete to make reparation

for their behaviour. While other conference participants also engage in this process, the young offender maintains the right to veto components or the entirety of the plan (s52(4) YOA). If vetoed, all or any component of the outcome plan may be re-negotiated until agreement is reached. These *consultative processes* allow young people to be involved in decision-making processes and to negotiate outcomes. However, the opportunity to engage in conferencing only arises as an alternative to more punitive options. *Voluntariness* is therefore constrained as the decision to participate is influenced by the ramifications associated with non-participation (referral back to police or the court). Further, gatekeepers, such as police and the courts, are vested with the power of discretion to determine which individuals are granted access to conferencing. Although this discretion is bounded by legislation that specifies that offences must not involve sexual, serious drug or traffic offences, or one involving the death of a person (s8 YOA), there exists evidence to suggest discretion may be applied differentially by gatekeepers (Murphy et al., 2010). Conferencing for YMF is therefore limited in its capacity to attain CC-DRR principles because access to democratic and consultative processes is mediated by legislation and gatekeeper discretion. Nevertheless, when considered in the criminal justice context, conferencing for YMF is the only mechanism in NSW that gives young people the power to decide whether to participate, and a *voice to negotiate outcomes*. Conferencing for YMF is the most voluntary, democratic, and consultative of the juvenile justice mechanisms available in NSW.

Developmental outcomes include capacity change as a result of increased knowledge, skills, and abilities gained through education, training, or workshops, and well-being change as a result of changes related to risk reduction (Plan International, 2010, p. 74). One of the main principles of conferencing is to promote the development of young people by providing the impetus for capacity and well-being change (s34 YOA). In accordance with s8

*YOR 2016* young people are provided with *fire safety education* and fire safety-related tasks to *expand their knowledge and strengthen their skills*. The aim is to initiate *cognitive and behavioural changes* that *reduce the risk and impact of future YMF*. Such changes are likely to occur when YMF manifests from a lack of fire safety education or poor fire safety skills. Changes are not expected to occur when YMF manifests as malicious behaviour or as a symptom of psychopathology (McDonald, 2010). The relationship between fire safety education and behavioural change is also mediated by *adaptive capacity*, a young person's cognitive capacity to adapt to additional information gained through social interaction (Bandura, 1971). If targeted towards young people who possess adaptive capacity yet engage in YMF due to a lack fire knowledge and skill, conferencing for YMF offers an avenue through which CC-DRR developmental outcomes may be attained.

Despite some limitations, CC-DRR and conferencing for YMF are theoretically aligned. CC-DRR provides a scaffold that explains and justifies the mechanisms operating in conferencing for YMF. Conferencing for YMF can be defined as a CC-DRR mechanism where the program has been strategically positioned as a risk reduction strategy that involves collaboration between government and non-government agents. The program provides young people with access to knowledge and information through fire safety education to enhance preparedness, improve response and recovery, and prevent and mitigate the risks and consequences of YMF. Conferencing for YMF acts as a democratic mechanism through which young people engage in voluntary, participatory, and consultative processes, within a culture of respect, to take direct action to engender capacity and well-being change. In return, conferencing for YMF has the potential to act as a CC-DRR mechanism, contributing to an increasing number of programs that strengthen understanding of fire risk and how risks related to fire can be managed.

#### **4.4. Conclusion**

Fire prevention and CC-DRR principles theoretically inform and justify conferencing for YMF, but, like restorative justice, these frameworks also fluctuate in their applicability. Discussions about conferencing for YMF are therefore not interchangeable with discussions about any one theoretical framework. Instead, alignment of the principles of restorative justice, fire prevention, and CC-DRR is required to form an interrelated scaffold that has the potential to explain and justify the unique program logic underpinning conferencing for YMF. This program logic differentiates the program from Youth Justice Conferencing more broadly and justifies an evaluation of Youth Justice Conferencing for YMF which accounts for its distinctiveness.

## **Chapter 5: Literature Review**

### **5.1. Introduction**

The following literature review will provide an overview of the purpose of the Memorandum of Understanding between Juvenile Justice New South Wales and Fire and Rescue New South Wales (section 5.2). The role of the firefighter (section 5.3), how the program intends to reduce recidivism (section 5.4), and the purpose of fire-specific outcome plans (section 5.5) will be discussed according to existing literature. The literature review will reveal that the theory underpinning Youth Justice Conferencing for YMF is imbued with assumptions which are not consistently supported within existing literature (section 5.6). This void will be used to develop the research questions for this study (section 5.7).

### **5.2. Purpose**

The purpose of the interagency agreement is to document the roles and responsibilities of JJNSW and FRNSW in relation to the attendance of firefighters at Youth Justice Conferences (s5 MoU, 2011). The objectives of the interagency agreement are to: specify the procedure for notification of an upcoming conference convened for a fire-related offence; provide for a firefighter to attend the conference; and provide for a firefighter to engage with other participants to produce a suitable, workable, and consistent section of the outcome plan (s5 MoU, 2011). The expected benefits include: the development of a formal notification process; increased firefighter participation in conferences convened for young people who commit fire-related offences; provision and promotion of consistent and contemporary fire safety information; provision of age and offence specific fire safety advice; provision of

information derived from personal experiences with fire and the associated risks; improved fire safety skills gained through the undertaking of fire-specific outcome plan tasks; a subsequent reduction in the likelihood of re-offending; and increased community safety (s6.1 MoU, 2011).

An analysis of the purpose and expected benefits indicates that the interagency agreement theorises that a young person who has engaged with a firefighter during conferencing and has subsequently received age and offence specific fire safety education will be less likely to engage in YMF in the future. However, there are numerous assumptions underpinning this theory which are yet to be empirically investigated. These assumptions include that:

- firefighters play a unique and central role within conferencing,
- firefighters will tailor the intervention to the offence and reduce fire-related recidivism,
- fire-specific tasks within a young person's outcome plan will tailor the intervention to the offence and reduce fire-related recidivism.

This review will bring together existing literature pertaining to these three main assumptions to ascertain whether there is evidence to support the theory underpinning the MoU, and thus Youth Justice Conferencing for YMF.

### **5.3. The role of the firefighter**

Firefighters are the key resource within conferencing for YMF. The MoU (2011) states that JJNSW will notify FRNSW when a young person has been referred to conferencing for YMF, and that FRNSW will *endeavour* to provide a firefighter to attend. Section 7.2.1 JJNSW Referral Management Policy (2012) states that Assistant Managers Youth Justice Conferencing must ensure compliance with the MoU regarding

firefighter attendance. The JJNSW Referral Management Policy (2012) also states that a FRNSW representative will attend conferencing for YMF *whenever possible*. Although there are no legislative provisions which mandate the attendance of a firefighter, legislative provisions do mandate the provision of fire safety related tasks within a young person's outcome plan (s8 *YOR* 2016). Conferencing for YMF utilises firefighter involvement to facilitate the inclusion of these tasks. The JJNSW Referral Management Policy (2012) explicitly states that the FRNSW representative will provide input to assist in the production of a suitable, workable, and consistent section of the outcome plan.

The MoU (2011) defines the firefighter as a participant. Section 8 MoU (2011) states that a firefighter who attends conferencing will work with all other agencies and individuals participating in the conference towards making the young person aware of the impact of their actions on others. The firefighter will also provide suitable input about the consequences of fire, endeavour to include a fire safety related task within the young person's outcome plan, monitor any fire safety related tasks, and report back to the Assistant Manager about the young person's progress in completion of these tasks. Although the MoU clearly outlines what is expected of a firefighter when participating in conferencing, the capacity in which the firefighter attends is not further defined. The firefighter is generically referred to as a 'participant'. This is made possible under s47(2) *YOA*, which states that the conference convenor may invite a person, not otherwise legislatively stated, to attend conferencing. The Supplementary Guidelines to the *YOA* also do not specify the capacity in which a firefighter attends conferencing. Although stating that a representative from FRNSW should be invited as a participant to each conference convened for YMF, the nature of the firefighter's role is not made explicitly clear. The MoU, the Supplementary Guidelines, and the *YOA* thus provide the

framework to facilitate firefighter involvement in conferencing as a ‘participant’ without further specification.

Attendance as a participant offers firefighters the flexibility to participate in conferencing in different capacities. Section 8 MoU (2011) states that firefighters are required to provide fire safety information and to make the young person aware of the actual and potential consequences of YMF. This advisory role aligns with that declared within s47(2) *YOA* which states that a community member who attends to advise conference participants about relevant issues may be a ‘respected member of the community’. Where the firefighter’s role is pedagogical, they may attend in this capacity to advise conference participants on fire-specific issues.

Firefighters may also attend conferences as victims, victims’ representatives, or corporate victims (FRNSW, 2015a). Section 47(1) *YOA* states that any victim or person chosen by the victim as a representative are entitled to attend conferencing. Section 5 *YOA* defines a ‘victim’ as a person who suffered harm as a direct result of an act committed, or apparently committed, by a young person during a criminal offence. Harm is defined as physical, mental, emotional, or psychological harm including mental illness, nervous shock, fear, humiliation, shame, or stress (s5 *YOA*). It may also include damage or destruction to property or financial loss (s5 *YOA*). When FRNSW respond to a fire, the organisation experiences financial loss associated with the costs of committing resources to the incident. There is a risk that the organisation may also suffer financial loss associated with physical, mental, emotional, or psychological harm to firefighters because of the incident. FRNSW may thus be defined as a victim. Section 5(3) *YOA* states that a victim that is an organisation or a Government authority may be represented by an officer of, or other person nominated by, the organisation or authority. The JJNSW Referral Management Policy (2012) specifies that an organisational victim



may be represented by a duly nominated officer, a delegated employee, or a Board Member. A nominated officer or delegated employee may attend as a representative of FRNSW when the organisation has experienced harm as a direct result of the fire. A firefighter can thus participate in conferencing as a representative of a corporate victim.

A firefighter may attend conferencing in the capacity of a respected community member or corporate/victim/victim's representative. The lack of role specification within the MoU offers conference convenors the flexibility to invite a firefighter to attend conferencing in whatever capacity best meets the needs of the conference. This aligns with restorative theory which does not seek to strictly define the roles of stakeholders of an offence due to the fluidity and interchangeability of participant roles (Prichard, 2004). However, this lack of role definition may also prove problematic because the capacity in which a firefighter attends conferencing determines the type of mechanisms operating within the conference and the way the firefighter is operationalised for evaluative purposes. Given a lack of empirical evidence, the capacity of firefighters to assume these roles has been analysed using existing literature.

### **5.3.1. Firefighters as respected community members**

The JJNSW Guidelines for Youth Justice Conferencing (2011) state that conferencing offers an opportunity for community involvement. When a firefighter attends conferencing as a respected community member, their role is to advise on relevant matters. This involves the provision of fire safety information to conference participants, particularly the young person and their support network. Here, the firefighter plays a pedagogical role. There are however, several assumptions underpinning this role. These assumptions suggest that firefighters: are respected; are perceived as members of a community; have the capacity to provide age and offence

specific fire safety information; and that provision of this information is sufficient to stimulate behavioural change. Given an absence of direct empirical evidence, the validity of these assumptions has been theoretically analysed by conducting a literature review.

### **Assumption 1: That firefighters are respected**

As explained in Chapter 3, conferencing for YMF employs reintegrative shaming processes to attain restorative outcomes. Ahmed et al. (2001) stated that shaming is more effective when it is practiced by a person or people whom the offender respects. Research also suggests that shaming by disrespected others may elicit less shame, less remorse, and a lack of acknowledgment of the behaviour as wrong (Ahmed et al., 2001). It is therefore important to determine whether young people possess respect for firefighters in general, or the individual firefighter specifically, to determine whether the capacity in which the firefighter attends is conducive to reintegrative shaming.

There is a lack of substantive empirical support for the proposition that firefighters are respected. The only study concerning perceptions of firefighters is that conducted by various independent consultancy firms as commissioned on an annual basis by Reader's Digest. This annual public opinion poll asks a representative sample of Australians to rank 50 job types on a scale of 1 to 10 in terms of trust (Reader's Digest Association, Inc, 2015). This poll has seen firefighters consistently ranked as the second most trusted profession for the past decade. However, the representativeness of this poll has not been evaluated, and the poll does not survey young people. In addition, the concept of trust is not explicitly defined, and is comparative. Simply because members of the public deem firefighters as a highly trusted profession compared to

other occupations, does not mean that firefighters are inherently trusted. Further, the survey asks respondents to list job types, rather than individuals, as trustworthy. Trust may therefore be directed towards the institution rather than the people incumbent within it. Whether community feelings of trust are directed at the organisation or the individual, or whether organisational trust is personified within individual firefighters, is not discernible. Finally, trust does not imply respect. These concepts measure fundamentally different phenomena, and as identified by Cao (2015) in relation to perceptions of police. Trust, confidence, and satisfaction, as well as respect, must be operationalised independently to ascertain accurate measures. Thus, it would be presumptuous to rely upon the notion that firefighters are inherently respected, or even perceived as trustworthy, by young people given an absence of empirical evidence to support this supposition.

Existing literature on young people's perceptions of police offer some insight into the importance of conducting empirical inquiry into young people's perceptions of firefighters. There is moderate consensus within the literature that young people possess negative perceptions of police, or at least, less positive perceptions than those held by adults (Schuck, 2013; Sindall, McCarthy, & Brunton-Smith, 2017). Although most studies acknowledge that these perceptions are mediated by age, gender, ethnicity, socioeconomic status, delinquency, and previous contact/experience, there is a lack of consensus regarding the effect of these variables (Piquero, Fagan, Mulvey, Steinberg, & Odgers, 2005; Rosenbaum, Schuck, Costello, Hawkins, & Ring, 2005; Stewart, Morris, & Weir, 2014). These findings suggest that the relationship between young people and their perceptions of police is complex and multivariate. This relationship is likely to have implications for Youth Justice Conferencing because each conference in NSW includes a Youth (Police) Officer/Youth Liaison Officer (s47(1) YOA) and provides for

the inclusion of one police officer for the purposes of training (JJNSW, 2011). The potential impact young people's perceptions of police have on conferencing processes and outcomes has been noted in some studies (Sivasubramaniam & Goodman-Delahunty, 2003). These findings are important to this study because a similar relationship may exist between young people, their perceptions of firefighters, and conferencing processes, outcomes, and impact. However, without empirical investigation into the population of interest, the way in which young people perceive firefighters in the context of conferencing remains unknown. If young people who engage in YMF and subsequently participate in conferencing possess negative perceptions of firefighters, then the use of a firefighter within conferencing may be iatrogenic. It is therefore necessary to empirically discern how young people who engage in YMF and subsequently participate in conferencing perceive firefighters and whether these perceptions influence the processes, outcomes, and impact of conferencing.

**Assumption 2: That firefighters are perceived as members of the community**

Whether firefighters are perceived as members of the community is another assumption underpinning conferencing for YMF yet to attract empirical inquiry. Artinopoulou and Gavrielides (2013) suggested that, within the context of restorative justice, the concept of community may be informed by the Aristotelian notion of *polis*. *Polis* refers to a complex system of human relationships, the social place in which citizens belong and where they interact (Artinopoulou & Gavrielides, 2013, p. 33). According to this conceptualisation, firefighters may be defined as members of the young person's community where both parties are citizens within the same society.

Rossner and Bruce (2016) sub-divided the concept of community by degree of social interaction. The micro-community, which consists of citizens who engaged in direct social interaction (the victim, offender, family, and friends), and the macro-community, which consists of citizens who represent community interests (respected community members). This conceptualisation provides for a firefighter to be defined as a member of the young person's macro-community.

The MoU implies that a firefighter is a member of the young person's macro-community. Section 6 MoU (2011) states that the role of the firefighter is to represent the interests of the community through the provision of fire safety education which will benefit the collective by enhancing community safety. However, the MoU also implies that this community is governed by the geographical area in which the young person committed YMF, and presumably where the young person resides. Schedule 2 MoU (2011) explicitly states that firefighter participation is offered to Permanent firefighters who attended the fire-related incident attributed to the young person. If none are available, the offer is extended to Retained (on call) firefighters who attended the incident. Again, if none are available other Permanent or Retained firefighters attached to the station that attended the incident will be invited to participate. If the conference is held in an area remote to the fire incident, local firefighters will be invited to participate. There is therefore an emphasis on drawing a firefighter from the geographical area in which the young person is a member. However, this definition of community is based upon the assumption that the geographical area which encompasses the offender and the victim, conference convenor and firefighter, is perceived as a community by those involved. As Braithwaite (2000a) stated, communitarianism does not assume a geographical community. Instead, it looks for community in whatever manifestation enables a support network to be built around an individual (Braithwaite, 2000a).

Further, regardless of whether the geographical area which encompasses all participants is perceived as a community, in practice firefighters are not always drawn from this geographical area. A review of FRNSW documents revealed that there is a disproportionate number of firefighters who have participated in conferencing compared to the number of regions in which the conferences have been held (FRNSW, 2015a). In NSW, a small number of specific firefighters have attended the majority of conferences, even when these have been held in geographically remote or rural areas. This misalignment between the MoU and the practical application of conferencing with firefighter involvement is reinforced by the Training Package Project Brief (FRNSW, 2015a). The Brief states that implementation of a new training package will increase the pool of representatives who can attend conferencing and decrease the costs associated with firefighters attending conferences out of area (FRNSW, 2015a). This implies that the pool of firefighters attending conferencing is limited and that high costs are being incurred by sending firefighters out of area to participate.

The use of a small number of representatives from FRNSW within conferencing may be justified by the JJNSW Referral Management Policy (2012). The Policy (2012) states that the process of nomination of a representative may need to be formalised to ensure that the representative is authorised to negotiate an outcome plan on behalf of the organisation. When resources and time are limited, a small number of firefighters may be the only firefighters readily available who understand the principles, purposes, and processes of conferencing. Utilising specific firefighters may therefore enhance efficiency in planning, preparing, and administering conferencing. However, the idea that a small number of firefighters are best placed to participate in conferencing due to acquired experience and authorisation to negotiate is problematic. In their study of restorative justice mechanisms in England and Wales, Crawford and Newburn (2002)

identified tension between community involvement and the need for community representatives to have the requisite skills and knowledge to contribute effectively. Preference for targeted selection of ideal participants was theorised to lead to a “rigid adherence to scripted procedures and formatted contracts” (Crawford & Newburn, 2002, p. 491). Rossner and Bruce (2016) extended on Crawford and Newburn’s (2002) theory to suggest that when a small core group of community members repeatedly participate in conferencing, these community members accumulate familiarity and experience and become more like ‘quasi-professionals’. Quasi-professionals maintain a sense of authority associated with their acquired experience that has the potential to change the dynamics of the interaction (Rossner & Bruce, 2016). When program coordinators possess a sense of authority and draw ideas from previous experiences, their contribution may undermine the voluntary and collaborative nature of conferencing and lead to outcome tasks that are not tailored towards the needs of the young person.

Further, for firefighters to be perceived as respected members of the community, they must be representative of the community from which the young person derives. However, firefighters are predominantly Anglo-Australian males. In 2015-16, FRNSW firefighters predominantly identified as Caucasian Australian (96.46%) males (94.70%) whose first language was English (98.16%) (FRNSW, 2016b). The lack of ethnic or gender diversity within FRNSW may mean that firefighters are not representative of the cultural community in which young people reside. This lack of diversity may not only impede the ability of the young person to perceive the firefighter as a legitimate member of their community, but may also impede pedagogical aims where fire safety information is male and Anglo-centric and propagates male and Anglo-centric notions of normality. Given one of the main principles of conferencing is to be culturally

appropriate wherever possible (s34(1)(a) *YOA*), the near cultural homogeneity within FRNSW may impede the ability of conferencing to exist as a restorative mechanism.

**Assumption 3: That firefighters have the capacity to deliver age and offence specific fire safety information**

The MoU indicates that the purpose of firefighter participation in conferencing is to provide information pertaining to the impact and risks of fire. Although there is no available evidence to indicate that firefighters provide subject-matter expertise which enhance pedagogical outcomes, one study conducted by Lambie et al. (2012) sheds light on this assumption. Lambie et al. (2012) conducted qualitative analysis of young people and caregiver perceptions of the NZ's Fire Awareness and Intervention Program (FAIP) delivered by firefighters. Seventeen young people who had participated in FAIP for YMF were interviewed face-to-face or over the telephone. Participants stated that the firefighter presented the program in an understandable manner and that this helped raise awareness of the consequences of fire (Lambie et al., 2012). Although for some participants the content was not age-appropriate, the researchers concluded that the skills and qualities of the firefighter facilitated the development of a therapeutic relationship which was conducive to the attainment of pedagogical aims (Lambie et al., 2012). In this context, firefighters were deemed capable of presenting fire safety content in a way which facilitated learning. However, firefighters underwent extensive training before delivering FAIP interventions, and this training has not been compared to FRNSW firefighter training. Therefore, the results cannot be generalised to firefighters who facilitate fire safety education within the context of conferencing in NSW.

Further information can be garnered from a small body of literature which intertwines the assumptions that firefighters have the capacity to deliver age and offence



specific fire safety information and that firefighters are respected members of the community. FRNSW (2014a, para. 6) promote the importance of firefighter involvement in fire safety education, stating that firefighters play a valuable and trusted role within the community, and that the high level of trust instilled within firefighters enhances the effectiveness of fire safety education. FRNSW (2014a, para. 6) suggests that students are more likely to “listen, believe and follow what is presented – leaving lasting, positive impressions” when fire safety education is delivered by firefighters. An article in the Grafton Daily Examiner (Phillips, 2006, June 5) reported on the implementation of conferencing for YMF in NSW. In an interview with the then NSW Minister for Juvenile Justice, Tony Kelly stated “who better than an experienced firefighter to reinforce the serious consequences of the offenders’ behaviour” (Kelly, in Phillips, 2006, June 5, para. 13). Analysis of existing literature revealed that this opinion is reflected by other YMF service providers and program practitioners. Haines et al. (2006) conducted a study of YMF intervention services in NZ, Australia, the UK, US, and Canada. The researchers found that YMF intervention service personnel believed that the delivery of fire safety information by firefighters increased the effectiveness of fire safety education. However, firefighters were perceived as credible sources of information by participants in the study because they were experienced firefighters in uniform. Program practitioners believed that a firefighter in uniform fosters respect and assists in the development of rapport. Such literature indicates that it is likely a uniformed firefighter will be perceived as a trustworthy source, which is instrumental to the effective delivery of age and offence specific fire safety education. Incongruously, an analysis of YMF intervention programs in Australia revealed that credibility is not necessarily a factor which facilitates fire safety education (McDonald, 2010). In McDonald’s (2010) study of Victoria’s secondary YMF prevention program,

one practitioner responded by stating that the 'X factor' of the firefighter is thought to make the YMF intervention experience so significant that it influences a modification of behaviour within the young person regardless of the presence of other variables.

However, this assumption is based upon implied psychological processes that are not empirically supported or even theoretically prophesied (McDonald, 2010, p. 306). The assumption that a firefighter in uniform will enhance pedagogical outcomes and affect behavioural change remains contentious.

Whether firefighters have the capacity to deliver age and offence specific fire safety information also varies at the individual level. Section 6.1 MoU (2011) states that one of the expected benefits of JJNSW and FRNSW cooperation is the provision and promotion of consistent and contemporary fire safety information within each conference and the resultant outcome plan. Consistency in the provision and promotion of fire safety information is facilitated through FRNSW's Community Safety Coordinator. The Community Safety Coordinator is responsible for the coordination of any request for, and attendance, of a firefighter in conferencing (Schedule 2, MoU, 2011). The Community Safety Coordinator clarifies the purpose and parameters of firefighter participation in conferencing through the provision of a brief concerning the roles, responsibilities, and requirements (Schedule 2, MoU, 2011). The role of the Community Safety Coordinator is to ensure consistency in participation. However, whether this consistency is realised in practice is unknown. There is no evidence that firefighters follow a script during the conference to ensure consistency in the delivery of fire safety information. Further, firefighters are encouraged to discuss the actual and potential consequences of YMF in relation to the young person's offending (MoU, 2011). Flexibility in delivery is thus required to ensure that the content is targeted towards the needs of the young person involved. In addition, each individual firefighter

will draw from their own unique history of experiences to assist young people in understanding the consequences associated with misuse of fire. The capacity of firefighters to deliver consistent fire safety information has not been empirically measured and remains unknown.

**Assumption 4: That fire safety information leads to behavioural change**

The MoU states that the purpose of firefighter participation in conferencing is to reduce YMF recidivism. The MoU theorises that behavioural change will occur when a young person has engaged with a firefighter during conferencing and has received fire safety education. Fire safety education is referred to within s6.1 MoU (2011) as:

consistent and contemporary fire safety information; age and offence specific fire safety advice and education; and information about the potential consequences of YMF. The assumption that these various forms of fire education will lead to behavioural change and thus enhanced community safety is problematic, as existing literature conveys.

First, fire safety education is a broad term which has been employed within existing literature to refer to educational programs delivered to young people which enhance understanding of all or any of the following: the science of fire (the fire triangle), the nature of fire (what burns and how fast), the consequences of misusing fire, how to use fire, how to protect oneself from fire, and how to prevent fires from occurring (Haines et al, 2006; McDonald, 2010; Satyen et al, 2004). The effectiveness of these different forms of fire education in changing fire-related behaviour in young people have varying degrees of empirical support.

When fire education refers to an awareness of fire science, existing literature suggests that as knowledge about the science of fire increases, YMF becomes less likely. Fire science education involves information about the fire triangle - heat source,

oxygen, and fuel. Bergeron (2003) argued that a perception of being able to control fire, coupled with limited knowledge about the science of fire, heightens the risk of, and consequences associated with, YMF. Although this conclusion was based on a literature review rather than empirical evidence, it does highlight that misperceptions about the science of fire, particularly the elements which contribute to fire speed and spread, may contribute to YMF.

Existing literature suggests that education which enhances awareness of the nature of fire, such as what burns and how fast, may produce iatrogenic outcomes. Bergeron (2003) suggested that as knowledge about combustible materials increases, YMF recidivism is more likely. Kolko and Kazdin (1992) conducted a study of 138 6-13 year olds from the US. The sample was sub-divided according to YMF and non-YMF behaviour. Kolko and Kazdin (1992) found that one factor which was associated with YMF recidivism was greater knowledge about combustible materials. Despite the statistical insignificance of this relationship after application of the adjusted probability level, this study highlighted that an awareness of the nature of fire may increase YMF, or at least, successful attempts at YMF.

Fire education which aims to enhance an awareness of the consequences of misusing fire may be beneficial in reducing YMF recidivism when the behaviour manifests from a lack of awareness. Haines et al (2006) conducted a study of YMF intervention services in NZ, Australia, the UK, US, and Canada. The NZ based researchers found that many of the program practitioners involved in the study believed that young people did not consider the consequences of their actions or did not fully understand them prior to participating in YMF (Haines et al, 2006). Pooley (2017a)<sup>2</sup>

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<sup>2</sup> These findings were derived from original work which arose from this research project, published prior to submission of the thesis. The findings were not reported in this thesis due to subsequent changes made to the methodology. For full text, see Pooley (2017a).

analysed 23 apology letters written by young people as a component of their diversionary conferencing for YMF outcome plans. Pooley (2017a) found that 16 young people attributed their misuse of fire to a lack of understanding of the consequences. Further, all young people cognized at least one fire safety message delivered to them by firefighters in the context of conferencing. These messages pertained to the consequences of misusing fire and co-occurred with the acceptance of responsibility and proclamations of behavioural change (Pooley, 2017a). Such findings indicate that the provision of information about the consequences of YMF has the potential to target and reduce the behaviour when it manifests from of a lack of awareness.

An awareness of how to use fire, referred to as fire skills, may have a positive and negative correlation with risk of YMF. When positively correlated, the better one's fire skills, the more likely misuse of fire will occur. Butler and Gannon (2015) applied offence scripts and offence expertise to explain misuse of fire by adults. The UK based researchers suggested that individuals who misuse fire sit along a continuum of expertise, and it is more likely that those at the novice end have less experience, less involvement, and less practice, than those at the expert end. The greater the frequency of involvement, the better one's skills in using fire, the more likely the individual will use fire illegitimately in the future (Butler & Gannon, 2015). However, there is also evidence to the contrary, suggesting that the better one's fire skills the less likely misuse of fire will occur. Barrowcliffe and Gannon (2015) conducted a study of 133 community members from Kent, UK. The researchers found that individuals who did not misuse fire recently reported more experimentation with fire prior to the age of 10 years than individuals who reported recent misuse of fire. These findings suggest that lower rates of YMF may have led to an under-development of fire skills, and thus a higher likelihood of misuse of fire during adulthood (Barrowcliffe & Gannon, 2015).

Finally, educational initiatives which aim to enhance young people's understanding of how to protect oneself from fire and how to prevent fires from occurring have been found effective. Kolko et al. (2006) studied 46 boys aged 5-13 years who had been referred to YMF intervention in the US. The YMF intervention program involved fire safety education which taught young people personal safety strategies (evacuation techniques) and prevention practices (giving matches to an adult). The researchers found that such education led to improved fire safety skills for both young people and their primary care givers (Kolko et al., 2006, p. 233). In fact, Kolko et al. (2006, p. 235) found this form of education to be more effective at improving knowledge and skills, and thus reducing the risk of YMF, than cognitive behavioural therapy or firefighter home visits.

A small number of studies measure the effect of all forms of fire education collectively. McDonald (2010) conducted a study of 29 young people referred to Victoria's Juvenile Fire Intervention and Awareness Program. This program involves education on the nature of fire, fire science, the consequences of misusing fire, how to protect oneself from fire, and how to prevent fire (McDonald, 2010). The researcher found that such education led to a lower risk of YMF recidivism due to improved fire safety skills, lower fire curiosity, and less involvement with fire (McDonald, 2010). Ducat and Ogloff (2011) conducted a review of international fire safety education programs. The Australian researchers similarly concluded that programs have an impact on recidivism when they educate young people on the social and medical consequences of misuse of fire, teach fire safety skills and awareness, and include role play exercises pertaining to the hazards of fire and safer fire use (Ducat & Ogloff, 2011).

A review of existing literature indicates that fire education is a broad term which refers to several different elements for which there exists varying degrees of empirical

support. Despite this, conferencing for YMF does not operationalise fire education and instead refers to the concept in three different ways: as general information, as age and offence specific advice, and as education on the potential consequences of YMF. Despite evidence within existing literature that fire education can have iatrogenic outcomes, fire safety education provided by firefighters within conferencing has not been empirically investigated.

### **5.3.2. Firefighters as victims**

Firefighters may also attend conferencing in the role of a corporate/victim/victim's representative. If the firefighter attending the conference is a secondary victim, their primary role is to inform the young person about the effect the offence has had on them as a firefighter who responded to the incident. Attendance as a secondary victim enables the portrayal of harm caused at the individual level. If the firefighter attending the conference is a corporate victim/victim's representative, their primary role is to provide insight into the specific harm caused by the offence to the fire service which attended the incident. Attendance as a corporate victim/victim's representative enables portrayal of harm caused at the organisational level. Regardless of whether the firefighter is representing themselves or their organisation, there are two main assumptions underpinning these roles: that a firefighter has the capacity to effectively communicate harm caused at the individual or organisational level; and that a firefighter will be perceived as a 'victim' by the young person involved. Given an absence of direct empirical evidence, existing literature has been analysed to shed some light on the validity of these assumptions.

**Assumption 1: That firefighters have the capacity to communicate harm caused**

For a firefighter to participate in conferencing as a corporate/victim/victim's representative, harm must have been caused and experienced. The MoU (2011) states that the firefighter will work with all other agencies and individuals participating in the conference towards making the young person aware of the impact of their actions on others, and will provide suitable input at the conference about the consequences of fire. In addition, the agreement declares that priority should be given to firefighters drawn from the crew who attended the incident caused by the young person in the conference. In this instance, the firefighter can speak about their actual experiences of harm caused by the young person. In accordance with Schedule 2 MoU (2011), the firefighter can discuss their response from the time the call was received through to actual firefighting operations and all the associated risks. Here, the firefighter has the capacity to communicate actual or potential harm caused by the young person specific to their offence.

If firefighters cannot be drawn from the crew who attended the incident, other firefighters such as those attached to the station that responded to the fire or those attached to the station within the community in which the incident occurred, or the Community Safety Coordinator, may attend. To communicate actual or potential harm caused when a firefighter has no direct knowledge of the incident, they may research the incident by communicating with the responding crew or by reading the fire report submitted after the incident. In these instances, when discussing the actual and potential consequences of the young person's actions and the fire service's response, it is likely that this discussion will come from the firefighter's perception of the incident created by information gathered and understood within the context of the firefighter's repertoire of



experiences. Although the Guidelines for Youth Justice Conferencing (JJNSW, 2011) state that corporate victims play an important role in educating young people about indirect harm, the capacity of the firefighter to communicate direct harm is reduced.

The importance of learning about direct harm caused from the perspective of a firefighter has been recognised within an evaluation of the Cardinia Hills Youth Fire Readiness Project (Towers et al., 2014). Evaluation of this CC-DRR program revealed that young people value activities which promote empathy and connectedness, such as learning about the direct experiences of survivors and first responders (Towers et al., 2014). Although this program is targeted towards young people recovering from the aftermath of bushfires, findings indicate that learning about direct experiences of victims and first responders may enhance behavioural change, and thus reduce recidivism. The limitation caused by the utilisation of firefighters who were not directly involved in the incident has been recognised by JJNSW in their Referral Management Policy (2012). The Policy quotes one conference convenor, who stated that when a corporation is identified as the victim of an offence, there is no direct harm to address or redress. Consequently, JJNSW informs conference convenors to utilise victims' representatives to educate the young person about indirect, or secondary, harm (Referral Management Policy, 2012, p. 4).

Regardless of whether a firefighter communicates direct or indirect harm, capacity to communicate harm caused is reliant on the knowledge and skills of the firefighter. Haines et al. (2006) conducted a study of program practitioners' perspectives of YMF interventions services. Many participants indicated that good communication and interpersonal skills were essential for the successful delivery of YMF intervention services. In an analysis of NZ diversionary conference co-ordinators' perceptions, Slater et al. (2014) found that co-ordinators only perceived conferencing as effective when all

professionals performed their functions in accordance with restorative justice principles. The FRNSW intranet provides access to the MoU governing the program as well as Guidelines for Attendance at Youth Justice Conferences (NSWFB, n.d.). These guidelines inform firefighters of the rationale behind Youth Justice Conferencing, the procedure, and the role firefighters play within conferencing (NSWFB, n.d.). However, analysis of available documentation revealed that a formal training package was not developed by FRNSW until 2015, nine years after the program was officially implemented. The objectives of the Training Package Project Brief (FRNSW, 2015a) were to increase the professionalism of FRNSW through an education program which up-skills its workforce and decreases the risk of having a firefighter act contrary to the precepts of the organisation. The purpose of the recently conceived training package infers that firefighter knowledge and skill development in the context of conferencing had not, to date, been officially addressed.

### **Assumption 2: That firefighters will be perceived as victims**

Whether a firefighter is perceived as a victim by the young person will influence the ability of the young person to accept responsibility, experience remorse, and repair harm. As Bolitho (2005) stated, attendance of the victim is one of the five key elements influencing conference processes. In a review of international restorative justice research, Sherman and Strang (2007) found that restorative justice programs, like conferencing, work better for offences involving personal or collective victims than those without. Perception of the firefighter as a victim will therefore influence the processes and outcomes of conferencing.

The costs and benefits of employing a corporate victim within restorative justice encounters have been noted within existing literature. Dignan (1992) analysed an

evaluative study of the Kettering Adult Reparation Scheme, a pre-trial diversion scheme aimed at adult offenders in Northamptonshire, England, in the 1980s. After analysing 50 offender and 90 victim interviews, Dignan (1992) found that direct mediation was more likely to occur between an offender and a corporate victim than an individual victim, and that a corporate victim was more likely to express satisfaction and offer unequivocal support for the process than an individual victim. Although this research brings to light the efficacy of restorative justice encounters for corporate victims, later research indicates myriad problems associated with the inclusion of corporate victims in restorative justice processes. Dignan (2005) suggested that, although legally possessing the status and identity of a victim, corporate victims may not be conceptualised or perceived as a stereotypical victim. This poses a challenge for the utilisation of restorative justice which requires the offender to recognise the victimisation they have caused and the resulting needs (Dignan, 2005; Zehr, 2004). The utilisation of a firefighter as a corporate victim or victim's representative is therefore contentious. Due to a lack of empirical investigation, it is not possible to determine whether firefighters successfully assume the role of a victim, or whether this influences the processes, outcomes, and impact of conferencing.

If a firefighter is perceived as a corporate/victim/victim's representative, their presence may be more restorative than a civilian victim directly affected by the offence. Daly (2008) drew on research findings from the South Australian Juvenile Justice project to determine whether the effect of conferencing on the victim was contingent on the degree of distress the victim experienced. Daly (2008) found that the more distressed the victim, the more negative their attitude towards the offender and the less likely they were to find mutual understanding with the offender. Daly (2008) suggested that victims are more restorative in their behaviour when they experience no or low

distress. Due to repeat exposure, experience, and training, firefighters are more likely to experience no or low distress in response to YMF than civilian victims. By assuming the role of a corporate/victim/victim's representative, firefighters have the capacity to behave in a manner which increases the likelihood of reaching agreement on an outcome plan and facilitating a positive experience for the offender.

However, the status of the firefighter may also influence the capacity of conferencing to facilitate reintegrative shaming. Braithwaite (1989) suggested that there is fundamental consensus about, and rejection of, offences against property and persons. There is therefore a cultural commitment to shaming these behaviours. However, reintegrative shaming cannot explain behaviours for which there is doubtful consensus, such as 'victimless' crimes (Braithwaite, 1989). As Braithwaite (1989, p. 11) advocated, behaviour which risks no harm to other citizens should not be shamed as criminal. The effectiveness of reintegrative shaming, and thus conferencing, relies on the notion that harm has occurred and that the offence has a victim. However, not all cases of YMF cause damage and destruction to property or endanger life. In fact, the legislative framework governing conferencing specifically excludes YMF which is used to, or in an attempt to, cause significant damage and destruction to property or endanger life (s8 & s36 YOA 1997 NSW, *Crimes Act 1990* NSW, & *Crimes (Domestic and Personal Violence) Act 2007* NSW). Cases of YMF which are deemed suitable for conferencing may have caused little to no harm and may be 'victimless'. Furthermore, if harm does occur, it may be in the form of damage to property owned by the State (e.g. bushland). In this case, the victim is not individually identifiable. If no harm has occurred, the crime is 'victimless', or the victim is the State, individual victims may not be represented within conferences. Reintegrative shaming may thus be impeded.

Emphasis should therefore be placed on ensuring the direct victim is given the opportunity to participate in conferencing. The presence of a direct victim personalises the misuse of fire, providing an emotional component necessary to convey the magnitude of the impact of the young person's actions (Slater et al., 2014). Sherman, Strang, and Newbury-Birch (2008) stated that victim presence is a key variable in both restorativeness and reducing the risk of recidivism. Participation of the victim should therefore take precedence over participation of a corporate/victim/victim's representative, or the complete absence of a victim. Only when the direct victim is unavailable, or the misuse of fire is 'victimless', or against the State, should a firefighter assume the role of the corporate/victim/victim's representative. As stated in the JJNSW Guidelines for Youth Justice Conferencing (2011), a convenor should ensure the victim's perspective is represented regardless of the attendance of the direct victim. Firefighter attendance as a corporate/victim/victim's representative may facilitate the portrayal of a victim's perspective where all other avenues have been exhausted. As Maxwell et al. (2008) stated, the absence of a victim should not be confused with an inability to communicate harm caused. Where firefighters have the capacity to communicate harm caused, they may compensate for the absence of a direct victim. However, without empirical evidence pertaining to young people's perceptions of firefighters within the context of conferencing, the assumption that firefighters embody the role of a corporate/victim/victim's representative and can thus portray a victim's perspective remains unsubstantiated.

#### **5.4. Reducing recidivism**

The MoU theorises that firefighter involvement in Youth Justice Conferencing will reduce the likelihood of future YMF. This assumption is both challenged and supported within existing literature.

Restorative justice literature emphasises the importance of evaluating conferencing against intangible objectives. In fact, a reliance on tangible objectives such as recidivism to determine ‘what works’ has been criticised by seminal researchers as being reductive in nature (Richards & Lee, 2013). This is because conferencing was not intended to reduce re-offending but rather to provide a mechanism for restorative processes and outcomes (Hayes & Daly, 2003). Zehr and Gohar (2003, p. 8) stated that while reductions in recidivism may be a bi-product of restorative justice, restorative justice programs are implemented first and foremost because they focus on the needs of victims, communities, and offenders. Braithwaite (1992, p. 37) specified that conferencing achieves success when offenders experience remorse and feel comfort in the knowledge that the support, love, and respect of their families and friends is maintained. The conference itself is not designed to immediately manifest into behavioural change. Instead, its objective is to stimulate communitarianism and interdependency, to instil within community members and persons of meaning the responsibility to engage in an ongoing process of behavioural change (Braithwaite, 1992a, p. 41). Braithwaite (2002) suggested that factors essential to restorativeness include non-domination, empowerment, respectful listening, equal concern for all stakeholders, accountability and appealability, honouring legally specific upper limits on sanctions, and respect for international conventions and human rights. If these ‘constraining standards’ are achieved, then restorative justice has been implemented within the process successfully (Bolitho, 2012). Richards and Lee (2013) agreed, stating

that restorative justice is more about how the criminal justice system responds to a young person, rather than the expected outcomes. These Australian-based researchers emphasised the importance of conducting evaluations which consider normative concerns including how young people are treated as well as instrumental concerns such as whether the program is effective (Richards & Lee, 2013). Finally, Mears and Butts (2008) stated that improving the life skills and education of young people is a more relevant measure of juvenile justice system effectiveness. This measure is especially important because these mechanisms are likely to have long-term effects.

Despite the need to rely on an array of measures of effectiveness, recidivism is employed as a key performance indicator of conferencing for YMF, and a measure consistently referred to by policy makers when evaluating criminal justice program effectiveness. As Wood and Suzuki (2016) theorised, restorative justice mechanisms such as conferencing must demonstrate some capacity to reduce crime to maintain relevance and legitimacy. Research has thus been conducted in this area. Hipple, Gruenewald, and McGarrell (2015) examined the extent to which restorative mechanisms within the processes and outcomes of conferencing in the US influenced long-term recidivism in young people. The researchers found that the more conferencing aligned with the theoretical foundations of restorativeness, the more likely recidivism would be reduced (Hipple et al., 2015). Hipple et al. (2015) theorised that this correlation may occur where reintegrative shaming enhances perceptions of procedural justice and the production of positive outcomes. Horan (2015) agreed that conferencing can be utilised to reduce recidivism, but for different reasons. Horan (2015) suggested that social bonds between the offender and their community of care are utilised within conferencing to promote desistance from crime. Conferencing also assists the young offender to desist from crime by providing an avenue through which

shame can be managed constructively and pro-social identities can be developed through responsabilisation and making amends (Horan, 2015). Although conferencing cannot be solely responsible for desistance, it does contribute to desistance by instigating the process or providing additional motivation (Horan, 2015). Sherman and Strang (2007) conducted a review of restorative justice research pertaining to UK and internationally based victim-offender mediation, indirect communication via third parties, and restitution or reparation payments ordered by court or referral panels. The researchers found that restorative justice programs reduced recidivism for more serious offenders, but not all. In Canberra, restorative justice initiatives were deemed no better at reducing recidivism in property offenders than being processed through court (Sherman & Strang, 2007). These findings were replicated in violent young males from Northumbria and young property offenders from Pennsylvania (Sherman & Strang, 2007). However, face-to-face restorative justice intervention reduced recidivism in young male property offenders from Northumbria, and young property and violent offenders from Indianapolis (Sherman & Strang, 2007). Sherman and Strang (2007) stated that restorative justice works differently on different types of people, and appears to reduce recidivism more effectively when employed for more serious offences. Evaluation of conferencing should therefore not be informed by ‘what works’ rhetoric, but ‘what works for whom’ (Sherman & Strang, 2007).

Restorative justice mechanisms may therefore not be sufficient to reduce recidivism in and of themselves (Jones, 2009). One of the main reasons for this limitation is that restorative justice programs do not address the underlying structural causes of offending (Braithwaite, 1991). Slater et al. (2014) conducted an analysis of co-ordinators’ perceptions of conferencing in NZ. The researchers found that coordinators had reservations about the effectiveness of conferencing for recidivists due



to the complex array of factors influencing their behaviour (Slater et al., 2014). Further, conferencing is only one of a multitude of life events which determine desistance from crime (Maxwell et al., 2008). Life circumstance and individual characteristics have an impact on re-offending and it is often impractical to control for all such variables when conducting recidivism studies. Nevertheless, Bonta, Jesseman, Ruge, and Cormier (2008) conducted a meta-analysis of restorative justice programs and found that most participants were low risk, male, Caucasian young people. Low risk offenders have fewer criminogenic needs which require addressing to reduce the likelihood of re-offending (Bonta et al., 2008). Further, low risk offenders commit small deviations from the norm which are more likely to be addressed by meeting the victim, accepting responsibility, and repairing harm (Bonta et al., 2008). Finally, young people are only diverted to restorative justice programs when they admit guilt to an offence and voluntarily consent to participate in the program. There is some debate which suggests offenders who have accepted responsibility for their behaviour and are willing to undertake measures to restore harm are less likely to re-offend regardless of the justice system mechanism with which they engage (Parliament of NSW, Select Committee on Juvenile Offenders, 2005). Restorative justice programs such as conferencing may therefore be sufficient to reduce re-offending within this population.

The MoU explicitly states that a reduction in recidivism is the main objective of conferencing with firefighter involvement. Although in direct contrast to the intended aims of conferencing generally, a reduction in recidivism is not untenable. Conferencing for YMF is a mechanism through which fire safety education can be delivered to young people who have a history of misusing fire. When misuse of fire manifests from normal developmental fire interest coupled with a lack of knowledge and skill to manage this interest, the provision of fire safety education has the capacity to address the underlying

cause of offending. Further, restorative justice programs which target low risk, male, Caucasian offenders may be effective in reducing recidivism. This is particularly applicable to conferencing for YMF where young people who misuse fire are disproportionately Caucasian males (Lambie et al., 2016; Morris, 2014; Prins, 1994; Stadolnik, 2000; Williams, 2005), and where the legislative framework restricts conferencing to those offenders whose misuse of fire has not caused significant harm. However, conferencing is not available to first time offenders or those deemed suitable for a warning or caution. Young people who participate in conferencing are therefore not within the lowest or highest risk categories, but are of moderate risk. The main objective of conferencing for YMF may therefore be suitable for the population the program targets.

#### **5.4.1. Deterrence**

Although recidivism rates pertaining to young people who participate in conferencing for YMF have not been empirically measured, existing literature enables one to hypothesise as to the mechanisms operant in reducing recidivism. If conferencing for YMF reduces recidivism, there must be a deterrent element inherent within firefighter involvement. In conferencing, deterrence manifests not from the traditional rational actor model, but from a virtuous actor (Ahmed et al., 2001). The following discussion of deterrence is therefore informed by a desistance from crime due to freely chosen compliance rather than deterrence enforced through punitive measures. When an individual desists from crime because the shame associated with the behaviour poses a threat to valued relationships and invokes remorse within the offender which acts as an internal control, reintegrative shaming promotes deterrence (Harris & Maruna, 2008). Emotion, such as remorse, can be the catalyst for behavioural change. For this to occur

however, shame must be constructive and a young person must accept their shame (Ahmed et al., 2001). Valued relationships refer to those between the offender and their community of care which does not necessarily include other members of the community, such as a firefighter. Although a firefighter may be perceived as a member of the offender's community of care, it is more likely that the firefighter is unknown to the young person and thus shaming is not a threat to the relationship between the young person and the firefighter. However, a firefighter may be able to invoke remorse in the young person if they provide a victim's account of harm caused. Maxwell and Morris (2002) conducted a study of restorative conference participants in NZ and found that offenders' self-reported remorse was correlated with lower recidivism. Firefighter presence may therefore promote deterrence if the firefighter effectively communicates the actual or potential consequences of the young person's actions and this interaction manifests into acknowledgement of wrongdoing and subsequent remorse felt by the young person.

#### **5.4.2. Rehabilitation**

Whether there is a rehabilitative element associated with firefighter involvement in conferencing is another factor which has not been directly addressed. Nevertheless, existing literature suggests that restorative justice mechanisms such as conferencing may contribute to the rehabilitation of the young person which may in turn reduce recidivism. Horan (2015) suggested that rehabilitation is a product of the interaction between the offender and their significant others. The utilisation of social capital is pertinent to the reintegration of the offender back into their community of care. Social capital refers to connections amongst individuals and the networks, norms, and relationships which arise from them (Moore & Recker, 2016). Rossner and Bruce

(2016) stated that a young person's community of care is pertinent to providing bonding social capital which reintegrates the offender back into their micro-community. The young person's macro-community also provides bridging social capital which re-connects the offender to people outside of their micro-community of care (Rossner & Bruce, 2016). Conferencing provides moral education to restore the offender back to the pro-social version of themselves. As a member of the young person's macro community, a firefighter may contribute to the development of bridging social capital, which has the capacity to rehabilitate the young person and thus reduce recidivism.

Firefighters may also contribute to rehabilitation of the young person when they attend conferencing in the capacity of a victim. Walgrave (2009) stated that the victim may be used as the educative tool in a rehabilitative framework. A firefighter may therefore be the educative tool which assists in restoring the offender back to their pro-social self. Their presence and contribution may also facilitate responsabilisation of the young person, while the provision and monitoring of fire-specific outcome plan tasks may assist the young person to repair harm. If the firefighter is perceived as a member of the young person's macro-community, their participation may strengthen pre-existing social bonds, facilitate rehabilitation, and reintegrate the young person back into the community. However, it must be noted that for rehabilitation to occur, the young person must have experienced habilitation and education prior to the offence (Bolitho, 2005).

### **5.5. Outcome plans**

The MoU implies that fire-specific tasks within a young person's outcome plan will tailor the intervention to the young person's offence and will assist in reducing fire-related recidivism. In NSW, s34 *YOA* states that one of the main purposes of conferencing is to determine an outcome plan for the young person to complete. In

reaching a decision, all participants within a conference must respect the rights, needs, and abilities of young people while providing them opportunities for development (s34 YOA). Participants must also have regard for the need to: hold young people accountable and to encourage them to accept responsibility for their offending behaviour; empower families and victims in making decisions about the young person's offending behaviour; and make reparation to the victim (s34(3) YOA). Although participants at a conference may make recommendations for an outcome plan, and consensus amongst participants is desirable, an outcome plan may be made without consensus held by all participants. In NSW, the power of veto lies with the young person and the victim, who have the right to reject the whole, or any part, of an outcome plan regardless of the views of other participants (s52(4) YOA). If vetoed, all or any component of the outcome plan may be re-negotiated until agreement is reached. Further, s52(5) YOA states that decisions pertaining to outcome plans are not limited to those suggested within the Act.

In 2002, the YOR 1997 was amended to include a provision for fire-specific content within conferencing outcome plans for bushfire/arson juvenile offenders. In 2010, the Law Society's Juvenile Justice Committee (Tidball, 2010) recommended the removal of the mandatory requirement for outcome plans to include a visit to a hospital burns unit. However, the Committee recommended the inclusion of offence specific requirements within a bushfire/arson offender's outcome plan based on evidence that these have positive practical implications on young people (Tidball, 2010). Section 8 of the amended YOR 2010 and the current YOR 2016 aligns with this recommendation. It specifies that an outcome plan for a young person who lights a bushfire or causes the destruction or damage of property by means of fire *must provide for*: attendance at an educational program, film or video which elucidates the harmful effects of fire; and the

making of reparation for the offence via clean-up assistance or the treatment of injured animals or comparable community service work; and the payment of compensation. Despite prescribing the content which conferencing outcome plans must provide for, s8(3) and s8(4) *YOR* 2016 state that this clause does not limit any other matter from which an outcome plan may provide, and does not affect the requirements of the Act relating to agreement of an outcome plan. The legislation thus ensures that Youth Justice Conferencing outcome plans provide for the inclusion of fire-specific tasks, but that this does not override the participatory nature of conferencing or the requirement to attain agreement from all stakeholders on the actual content of the outcome plan.

The MoU (2011) provides a mechanism through which fire-specific tasks may be included within the outcome plan and subsequently monitored. Section 8.3 and 9.1 of the MoU (2011) state that, where appropriate, a firefighter *will endeavour* to include a fire safety related task for the young person to complete as part of the outcome plan agreed to by all participants. Section 8.4 MoU (2011) states that the firefighter may agree to act as a monitor for relevant parts of the outcome plan agreed to at the conference, while s9.2 MoU (2011) specifies the administrative requirements of this task. Both the legislation and the interagency agreement provide for the possible inclusion of fire-specific tasks within the outcome plan, while protecting the agreement of all stakeholders and the voluntary nature of agreement to these tasks. This is theoretically in line with the restorative underpinnings of conferencing generally.

Despite the above mechanisms developed to safeguard restorativeness in process and outcome, s8.2 JJNSW Referral Management Policy (2012) states that convenors must be made aware of s8 *YOR* 2010 and the need to provide for the screening of a fire safety education film or video. In fact, the Referral Management Policy (2012) stated that the watching of a specific fire safety video entitled '*The Consequences of Fire*'

satisfied this clause. *'The Consequences of Fire'* was produced by the Fire and Emergency Services Authority of Western Australia in 2001. It was originally designed to be used within Western Australia's secondary YMF prevention program. The video has since been employed in the Australian Capital Territory, NSW, Tasmania, and Victoria to facilitate the secondary prevention of YMF, and within NSW and Tasmania to facilitate the tertiary prevention of YMF. The video demonstrates the speed of fire spread and the potential consequences of YMF for both property and people (NSW Parliament, 2014). Analysis of the JJNSW Referral Management Policy (2012) and a Parliament of NSW (2014) report indicates that *'The Consequences of Fire'* was viewed by most young people who participated in conferencing for YMF between 2009 and 2014 in NSW. Although Lambie et al. (2012) conducted a study of young people and caregiver perceptions of a NZ-based YMF secondary prevention program and found that visual aids, such as a video, gave further substance to discussions surrounding misuse of fire and its consequences, *'The Consequences of Fire'* has not been empirically evaluated in the context of conferencing.

Further, the mandatory inclusion of a fire education video is contrary to the values underpinning the restorative processes of conferencing. Maxwell and Morris (2002) conducted an analysis of diversionary conferencing in NZ and found that two of the core factors in a successful conference, and thus reduced recidivism, were participation in decision making and agreeing with the outcome of the conference. If these factors are to be upheld, then discussion and consent from all stakeholders pertaining to fire-specific components of an outcome plan is required. If any stakeholders, particularly the young offender or the victim, do not agree to the fire-specific suggestions made by the firefighter, including the viewing of the video, then the power of veto must rest with the offender and/or victim, as per s52(4) YOA. Whether the

power of veto is overruled by the mandatory convention to include this video, or whether the offender and victim always voluntarily agree to include the viewing as a component of the outcome plan, is unknown. If the power of veto is overruled by the mandatory provision, then participation and voluntariness are not attained which may reduce the effectiveness of the conference (Hayes & Daly, 2003). Even where the offender and victim agree to the mandatory provision, there remains concern over whether these participants feel free to reject suggestions made by the firefighter or whether they feel compelled to comply because of the perceived authoritativeness of the firefighter.

Further, it has been noted that preferred outcomes of corporations have the potential to impede conferencing due to a lack of flexibility on behalf of the victim's representative which presents challenges to the conference convenor (JJNSW, 2012, p. 4). Attempts to understand a young person's motivation or the context of their offending is thereby reduced, endangering the suitability of the outcome plan by replacing individually tailored activities with those which align with a corporation's agenda (JJNSW, 2012, p. 4). These findings are concerning. The Referral Management Policy (JJNSW, 2012) informs conference administrators that a victim, regardless of whether they are a direct victim or a representative, has the right to the power of veto over an outcome plan. When a firefighter attends conferencing as a corporate/victim/victim's representative, they possess the power of veto to implement the viewing of the video as a component of the outcome plan. This may represent an abuse of power because the firefighter represents the state (FRNSW) rather than an individual victim and it is in the best interests of the firefighter to include the video within the outcome plan because it is a convenient means through which to fulfil their obligations under the MoU. This outcome plan inclusion thus has the potential to undermine restorative justice as power



is removed from the offender and community, and placed into the hands of the legislature, via the prescribed provision, and the state, via the firefighter. The prescribed nature of this provision, coupled with the power of veto held by a person who maintains a vested interest in its implementation, undermines the restorative nature of conferencing.

## **5.6. Conclusion**

The interagency agreement between FRNSW and JJNSW theorises that a young person who has engaged with a firefighter during conferencing and has subsequently received fire safety education, and fire-specific tasks to complete within their outcome plan, will be less likely to commit a fire-related re-offence. However, a review of the literature has revealed that the unique and central role that firefighters play within conferencing is imbued with a multitude of assumptions. Although existing literature provides some insight into the validity of these assumptions, no empirical evidence has been derived from the population of interest. Empirical evidence pertaining to the practical realisation of these assumptions is required because the role that firefighters play within conferencing for YMF will impact upon the efficacy of the program. Further, the MoU implies that firefighter involvement in conferencing will tailor the intervention to the offence and will lead to a reduction in fire-related recidivism. Although a review of the literature suggests that these objectives are theoretically attainable, there is no empirical evidence to support this proposition. Finally, the MoU theorises that fire-specific tasks within a young person's outcome plan will tailor the intervention to the offence and reduce fire-related recidivism. A review of the literature indicates that fire-specific outcome plan tasks do tailor conferencing to YMF, but that one specific task has been heavily relied upon in absence of empirical evidence to

support its suitability or effectiveness. It is therefore necessary to conduct an empirical evaluation of conferencing for YMF to provide an empirically-derived evidence-base to inform program verification or modification.

### **5.7. Research Questions**

The main research question guiding this project is:

(How) does Youth Justice Conferencing with firefighter involvement facilitate youth misuse of fire prevention?

To address this broad research question, four sub-questions were devised:

1. How does the program theorise conferencing with firefighter involvement will prevent youth misuse of fire?
2. (How) does this differ from Youth Justice Conferencing generally?
3. (How) does firefighter involvement influence the processes, outcomes, and impact of conferencing?
4. Does the practical application of the program align with what is theorised?

These research questions were designed to partially fill the voids identified within existing literature. The methodology developed to address these research questions is presented in the proceeding chapter.

## **Chapter 6: Methodology**

### **6.1. Introduction**

The methodology developed to address the research questions specified in Chapter 5 will be presented herein. The theoretical framework informing this evaluative research is post-positivism, as described in section 6.2. By employing post-positivism, empirical data will be gathered using multiple methods to conduct an evaluation of conferencing for YMF. The evaluative research will be guided by the theory approach logic model (section 6.3), each phase of which will be addressed through retrospective and exploratory research designs. These two research designs will be outlined in section 6.4, with details pertaining to data collection, data analysis, and rationale. This will be followed by a discussion of the limitations of the study (section 6.5).

### **6.2. Theoretical framework**

The methodology employed to conduct this research has been informed by a broad post-positivist approach. Post-positivism is a meta-theoretical perspective which emerged in reaction to positivism. Ontologically, both positivism and post-positivism perceive social phenomena as empirical or observable in nature (Gray, 2009). However, while positivism relies upon an ontological approach which suggests objectivity of knowledge is attainable (Gray, 2009), post-positivism recognises the limitations of human inquiry and propagates knowledge as subjective (O'Sullivan, Kemp, & Bright, 2015). Epistemologically, post-positivism emphasises the researcher within the research process, recognising that the knowledge, theories, values, and prejudices held by the researcher influence the way phenomena are observed and interpreted (O'Sullivan et al., 2015). Thus, post-positivism recognises that although knowledge is informed by direct

observation and measurement, inherent observer bias means objectivity is never fully attainable (Sharma, 2010). Empirically derived results must therefore be couched within context to ensure validity and reliability. This context-dependency aids the development of intersubjectivity rather than generalisability. Intersubjectivity refers to the understanding of reality through different perspectives (Charney, 1996). According to post-positivists, authority of findings is obtained when research conducted in similar situations produces similar results (Charney, 1996).

The theoretical underpinnings of post-positivism align with the methodological considerations necessary for evaluative research. First, evaluations are the product of social interactions between people and events (Greene, 2013). The context in which evaluations occur shapes not only the theoretical underpinnings informing the evaluation, but the type of evaluation conducted and how the results are interpreted (Greene, 2013). Second, evaluators impose implicit theories and assumptions upon their research (Migiro & Magangi, 2011). The knowledge and values held by the evaluator will thus be inextricably linked with both the theoretical and methodological approaches employed. Third, measurable aims are required to empirically evaluate risk prevention initiatives with validity and reliability (Simpson et al., 2014). Despite being context-dependent, evaluative research ultimately aims to investigate an empirical phenomenon in a manner which aligns with the rules underpinning scientific inquiry. Such inquiry often involves mixed methods, an approach which has the capacity to construct a holistic approach to investigating complex phenomena (Pinto, 2010), whilst also enhancing the scope and credibility of the research (Hastings, 2010). According to de Carvalho (2013), mixed methods designs have the capacity to improve the accuracy of evaluative research. Both mixed methods designs and post-positivism promote the need to employ numerous, critical examinations of a problem to elicit empirical evidence

which can be triangulated to obtain a more accurate measure of reality. Post-positivism thus provides a theoretical framework which facilitates, and recognises the limitations of, evaluative research.

### **6.3. Methodology and research plan**

To conduct an empirical evaluation of conferencing for YMF which analysed measurable aims with validity and reliability, a program logic model was employed. The Queensland Government (2015, p. 50) portrayed the logic model as a powerful conceptual tool which provides a solid framework through which a program can be evaluated. A program logic model is a visual representation of the core components, and the relationship between these components, of a program (Conrad, Randolph, Kirby, & Bebout, 1999). The model provides a set of parameters for systematic identification and examination of the theoretical underpinnings, and thus the context surrounding and assumptions underlying the development, implementation, and expected outcomes of a program (Sousa, 2010). The model enables the identification of appropriate performance indicators for valid and reliable program evaluation (Morgan, Boxall, Terer, & Harris, 2012). Further, the model is directional in nature, enabling the identification of factors that have mediating, moderating, and direct effects on program outcomes (Conrad et al., 1999). By utilising this framework, a systematic process which utilises the scientific method can be followed to determine if, and why or why not, a program has fulfilled its objectives.

The program logic model has a vast array of applications and manifestations, providing a framework through which systematic evaluation can be conducted on criminal justice and community-based initiatives (Alder, 2002; Bronte-Tinkew, Brown, Carrano, & Shwalb, 2005; Cato, 2006; Hill & Thies, 2010; Morgan et al., 2012). By

identifying and understanding the contextual and theoretical frameworks associated with conferencing for YMF, the program can be evaluated in a context-dependent manner against the benchmarks it was originally designed to achieve. Further, by acknowledging the factors which effect program outcomes, program improvement will be better informed, more appropriate, and effective.

The evaluation employed herein will be summative, one which will inform program modification and improvement (NSW Department of Premier and Cabinet, 2015). It will also be outcome/impact based, one which will determine whether the program reaches its target outcomes/impact (NSW Department of Premier and Cabinet, 2015). However, differentiation must be made between pure program evaluation and program evaluation for scientific research. While pure program evaluation is concerned with maximising program outcomes and impact, evaluative research aims to empirically derive an evidence base to inform policy and practice (de Carvalho, 2013). This study will conduct a research-oriented summative outcome/impact evaluation to empirically develop an evidence base upon which to verify or modify conferencing for YMF.

The W.K. Kellogg Foundation (2004) theory approach logic model will be utilised to inform this research-oriented evaluation. The W.K. Kellogg Foundation guide is defined as the most comprehensive and precise available (de Carvalho, 2013). The W.K. Kellogg theory approach model emphasises the theoretical frameworks which underpin the program, justify and drive the activities, and explain the predicted outcomes (de Carvalho, 2013). Brousselle and Champagne (2011) argued that by testing a program's theory, before or in conjunction with its effectiveness, a more profound evaluation can be performed than that which is achievable through an outcomes-based model. This is because failure of a program to achieve its desired outcomes may result from either inaccurate assumptions or inadequate implementation (Brousselle &

Champagne, 2011). A theory approach logic model enables an evaluation of the philosophy underpinning, as well as the effectiveness of, a program.

The theory approach logic model will involve the following seven stages:

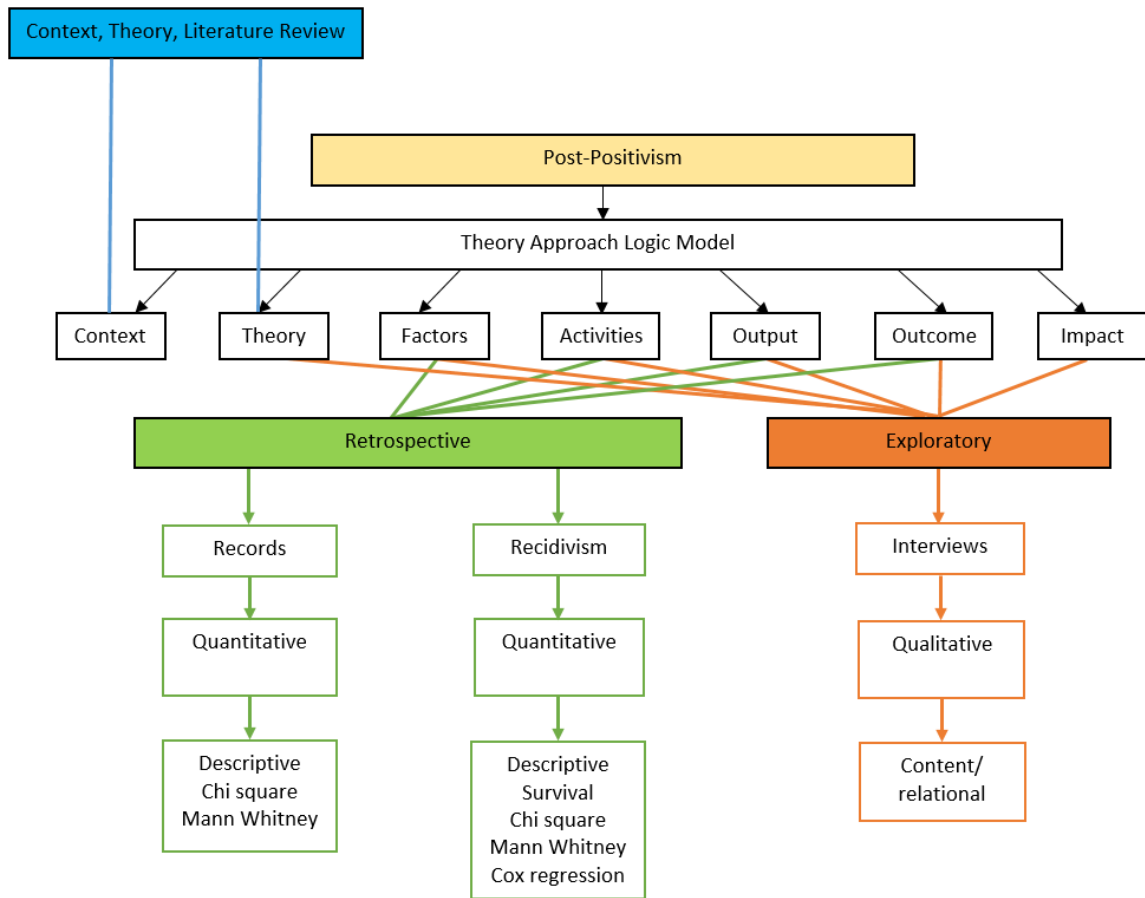
1. Context: The position and scope of the program within the socio-political environment.
2. Theoretical construct: The principles or assumptions which underpin the program, indicating how the activities of the program will address the problem.
3. Factors: The resources or inputs the program requires to operate, including personnel, funding, organisational networks, facilities, equipment, supplies, and time.
4. Activities: The way in which the resources are implemented, including the development of products, services, procedures, processes, practices, and infrastructure.
5. Outputs: The direct results of the program activities, evaluated by the size and/or scope of the products and/or services provided.
6. Outcomes: The effect the program has at an individual level in the short, medium, and long term, including changes in knowledge, skills, behaviour, or level of functioning.
7. Impact: The effect the program has at the organisational, community, or systems level, including policy and/or program development, and improved conditions and/or capacity.

The theory approach logic model provides a solid foundation upon which to conduct evaluative research into conferencing for YMF. To transform this theoretical approach into a practical application, this research will utilise strategic triangulation in the form of retrospective and exploratory research designs. Retrospective designs are

conducted on outcomes which have already occurred at the time of the study (Song, 2010). The retrospective design will involve the collection of secondary data derived from all Youth Justice Conferences for YMF convened in NSW over the previous 10 years (2006-2016). Exploratory designs are conducted when there are no existing studies on the concept under investigation (Lynn University Library, 2015). The exploratory design will involve the collection of primary data from program practitioners involved in the facilitation and/or administration of Youth Justice Conferencing for YMF. Methodological triangulation will also be performed by conducting both quantitative and qualitative data analysis. Quantitative analysis involves the operationalisation of data to identify statistical characteristics or relationships in variables derived from a population of interest (Kraska, 2010). Qualitative analysis involves the exploration of words to provide an in-depth, holistic, contextual, and interpretative account of social phenomena (Staller, 2010). In sum, the framework provided by the theory approach logic model will facilitate a post-positivist approach through the application of strategic and methodological triangulation, as displayed in Figure 4. The data derived will thus be empirical yet interpretable, while findings will be analysed within context to enhance intersubjectivity.



**Figure 4. Conferencing for YMF Theory Approach Logic Model**



## 6.4. Research designs

### 6.4.1. Part 1 – Youth Justice Conferencing records

#### 6.4.1.1. Data collection

Data included Youth Justice Conferencing records pertaining to young people who participated in a conference for a fire-related offence between 1 July 2006 and 30 June 2016, as maintained by JJNSW. Records were selected via homogenous sampling, a purposive non-probability sampling method which includes cases that possess the necessary attributes to provide an in-depth understanding of the concept under investigation (Lund Research, 2012). Homogenous sampling enabled access to the entire population of conferencing records pertaining to YMF in NSW. The sample included 251 records.

NSW conferencing records were accessed via JJNSW administrative records maintained in accordance with s10 *Young Offenders Regulation 2016* (NSW). Data was collected after approval to conduct research was granted by JJNSW. JJNSW extracted data pertaining to individuals who participated in a conference for a fire-related offence between 1 July 2006 and 30 June 2016, inclusive. The criteria for extraction included:

- The index offence was fire-related offence, AND
- The index offence was dealt with by way of a conference, AND
- The date of the conference occurred between July 1 2006 and June 30 2016, inclusive

The variables extracted from the database included:

- Date of birth
- Gender
- Cultural or ethnic background
- Nature of offence
- Date of referral to conferencing
- Date and location of conferencing
- Persons who attended the conference and the capacity in which they attended
- Particulars of the outcome plan of the conference
- Person responsible for the outcome plan
- Whether the outcome plan was completed

#### **6.4.1.2. Data analysis**

Data was analysed quantitatively. Data was uploaded into SPSS version 22. It was then coded, clustered, and classified into discrete variables. Descriptive statistics via cross-tabulations elucidated presence or absence of phenomenon and frequency of

occurrence. Chi square  $r \times c$  tests for independence were performed to determine if there were any statistically significant associations between firefighter involvement and each of the categorical variables within the data. Mann-Whitney U (independent design) tests were conducted to identify any statistically significant differences in each of the continuous variables by firefighter involvement. These tests were deemed the most suitable means through which to explore differences in Youth Justice Conferencing record content by firefighter involvement.

## **6.4.2. Part 2 – Recidivism data**

### **6.4.2.1. Data collection**

Data included re-offending data pertaining to young people who participated in Youth Justice Conferencing for a fire-related offence between 1 July 2006 and 30 June 2016. Records were selected via homogenous purposive sampling. The sample included 218 full records.

Data was collected from the Bureau of Crime Statistics and Research Re-Offending Database (BOCSAR ROD). BOCSAR ROD maintain data pertaining to Youth Justice Conferencing and both the adult and juvenile justice systems. This data was collected upon approval to conduct research from JJNSW, and was collected by JJNSW from BOCSAR on behalf of the researcher. BOCSAR extracted data pertaining to individuals who participated in a conference for a fire-related offence between 1 July 2006 and 30 June 2016, inclusive. The criteria for data extraction included:

- The index offence was a fire-related offence, AND
- The index offence was dealt with by way of a conference, AND
- The date of the conference occurred between July 1 2006 and June 30 2016, inclusive.

The variables extracted from the database included:

- Database person identifier/case number for index (fire-related) contact
- Demographic variables including: gender, age at index contact, Indigenous status, postcode as recorded for the index contact, index of disadvantage, quartile of socioeconomic index for areas, and remoteness index.
- Index offence details including: date, jurisdiction, specific type of index offence, ANZSOC group of principal offence, seriousness index, number of counts of principal offence, and number of proven concurrent charges.
- Conferencing details including: date, age at conference, and number of cautions/conferences/finalised court appearances prior to conferencing for index offence
- First re-offence details including: date, jurisdiction, specific type of re-offence, ANZSOC code, penalty code, free time from conference to date of first re-offence, seriousness index, number of counts of principal re-offence, number of proven concurrent charges at re-offence contact, and number of re-offences dealt with by way of caution/conference/court.

#### **6.4.2.2. Data analysis**

As recommended by Richards (2011), recidivism was calculated prospectively by counting the number of young people who participated in conferencing for YMF between 1 July 2006 and 30 June 2016 who were subsequently convicted of an offence within either the juvenile or adult criminal justice systems. Data was uploaded into SPSS version 22 and was analysed four ways. First, descriptive statistics (frequency analysis) were used to identify all categorical and continuous recidivism variables present in the data. Second, survival analysis was conducted. Survival analysis refers to

the study of how long young people who participated in conferencing for YMF survived before re-offending. Survival analysis was conducted by following cohorts within the sample and within each group: young people who participated in conferencing with a firefighter, and young people who participated without a firefighter. Third, comparative analyses were conducted. Chi square  $r \times c$  tests for independence were calculated to determine if there were any statistically significant associations between firefighter involvement and the categorical recidivism variables. Mann-Whitney U (independent design) tests were calculated to determine if any of the continuous recidivism variables differed by firefighter involvement. Finally, cox proportional hazards regression was used to determine whether any of the fire-specific variables were covariates (predictors) of risk of recidivism. These tests were deemed the most suitable means through which to explore differences in recidivism variables by firefighter involvement.

#### **6.4.3. Rationale for retrospective component**

Analysis of 10 years' worth of Youth Justice Conferencing record and recidivism data was deemed the most suitable means through which to evaluate program factors, activities, outputs, and outcomes. First, conference administrators are legislatively required to document conferencing processes and outcomes. Consequently, conferencing records contained the data required to analyse program factors, activities, and outputs. Conferencing records also document participant presence, meaning conferences which involved firefighter participation could be compared with conferences which did not. Second, recidivism data was used to operationalise program outcomes because the MoU (2011) explicitly states that a reduction in re-offending is the main objective of conferencing for YMF. Third, researchers such as Glancy, Spiers, Pitt, and Dvoskin (2003) and Haines et al. (2006) suggested that existing YMF program

evaluations were limited by small sample sizes and case study analyses. By conducting quantitative analysis of 10 years' worth of record and recidivism data, access to a large sample size which could be studied longitudinally, albeit retrospectively, enabled the entire population of young people who participated in conferencing for YMF between 1 July 2006 and 30 June 2016 to be included in the study. This retrospective design has the capacity to overcome the limitations inherent within primary and secondary evaluative studies, whilst providing the data required to fulfil the factors, activities, outputs, and outcomes stages of the theory approach logic model.

#### **6.4.4. Part 3 – Program practitioner perspectives**

##### **6.4.4.1. Data collection**

Participants included 11 program practitioners, divided into four groups: one program developer, a non-operational firefighter employed by FRNSW to develop the MoU and implement firefighter involvement in conferencing; four conference convenors who had convened conferences with firefighter involvement; three program coordinators, non-operational firefighters employed by FRNSW's Community Safety Directorate to administer firefighter involvement in conferencing; and three local firefighters, operational firefighters who had been recruited to participate in conferencing after they had attended a fire caused by a young person.

Homogenous purposive sampling enabled all program practitioners who had facilitated or participated in Youth Justice Conferencing for YMF to be targeted for participation in the study (Lund Research, 2012). The sample was however, self-selected, because the inclusion or exclusion of participants was determined by whether the participants agreed to participate (Sterba & Foster, 2008). Conference convenor and local firefighter details were not made available to the researcher, meaning self-

selection was the only means through which these practitioners could be identified and invited to participate. Further, while program developers and program coordinators could be identified and invited to participate, only those who self-selected were accessible to the researcher. Homogenous purposive sampling was thus employed to target participants, while self-selection was used to gain access to participants.

The population of program developers involved in the development and initial implementation of the MoU, and thus conferencing for YMF, were invited to participate in the study. Potential participants were identified through analysis of publicly available documentation. Upon identification, emails were sent to potential participants which included information about the research and an informed consent form. Of the three program developers identified and contacted, one agreed to participate.

The population of conference convenors serving in NSW between April and September 2016 who had convened conferences with a firefighter were invited to participate in the study. JJNSW contacted all 18 Area Managers responsible for the 35 Youth Justice Conference offices in NSW to inform them of the research. Upon approval, Area Managers' contact details were distributed to the researcher. Area Managers were then contacted by the researcher to inform them of the study. Of the 18 Area Managers contacted, 16 responded. One Area Manager agreed to allow the researcher to contact conference convenors directly, while the remaining 15 acted as intermediaries between conference convenors and the researcher. Five conference convenors expressed interest in participating in the study and, after receiving information and an informed consent form, four agreed to participate in an interview.

All firefighters who had acted in the position of Community Safety Coordinator within FRNSW were identified through a search of FRNSW documentation. Upon identification, emails were sent to potential participants which included information

about the research and an informed consent form. Of the four program coordinators identified and contacted, three agreed to participate in an interview.

The population of firefighters serving in NSW between April and September 2016 who had participated in a Youth Justice Conference were invited to participate in the study. This was achieved by distributing an invitation to participate via the FRNSW intranet announcements page, internal social media sites, and agency-specific social media pages. The invitations requested any firefighters who had participated in conferencing for YMF, and who would like to participate in an interview, to contact the researcher. Three local firefighters responded to the invitation and, after receiving information and an informed consent form, agreed to participate in an interview.

Exploratory data collection occurred between 1 April and 30 September 2016. Data was obtained by conducting telephone interviews with all program practitioners. These semi-structured interviews involved the use of an interview schedule (see Appendix B) which asked open-ended questions, while providing the flexibility required to probe participants for more detailed responses or to explain and explore new content which emerged because of the interaction (Gray, 2009, p. 373). The interviews took between 30-45 minutes to complete. All interviews were recorded by typing responses as they were provided. Participants were asked to clarify and verify responses throughout the interview to avoid errors during the transcription process. All responses were uploaded into NVivo version 11 for analysis.

#### **6.4.4.2. Data analysis**

Data was analysed by employing content analysis. This qualitative inquiry involved analysis of data in the form of words, providing insight into the meaning behind human action (Schwandt, 2007). Relational analysis was utilised to identify



patterns of, and relationships between, concepts (Kedar & Shewale, 2015).

Relationships were analysed for their strength, sign, direction, and meaning to identify attitudes, values, motivations, and neutral, positive, or negative tones (Le Navenec & Hirst, 2010). Qualitative analysis was inductive, involving the use of empirical observations to generate new concepts (Johnson, 2008). Given the absence of existing literature pertaining to program practitioner's perceptions of firefighter involvement in conferencing, this inductive approach provided for an exploratory analysis. This methodological approach enabled exploration of program theory, factors, activities, outputs, outcomes, and impact from program practitioners' perspectives.

#### **6.4.4.3. Rationale for exploratory component**

This exploratory design was deemed the most appropriate means through which to explore program practitioners' perceptions of firefighter involvement in conferencing. Telephone interviews were specifically selected as the data collection method as they have the potential to yield similar data quality and quantity as face-to-face interviews (Sturges & Hanrahan, 2004; Holt, 2010) while offering a more efficient, convenient, and egalitarian approach (Holstein & Gubrium, 2003; Holt, 2010; Lavrakas, 2008). These characteristics are important because the population of program practitioners who were involved in the development or implementation of conferencing for YMF in NSW were geographically dispersed. Participants are also professionals and/or shift workers and were thus expected to be time poor and have varying periods of availability. Telephone interviews offered program practitioners the opportunity to participate in the research at whatever time and location was most convenient. Telephone interviews were thus deemed the most suitable data collection method

through which to explore a social phenomenon which is yet to be empirically investigated.

### **6.5. Limitations**

Each research design possessed its own unique shortcomings which placed methodological limitations on the research. The following measures were taken to address these limitations and to enhance the validity (the extent to which something measures what is intended) and reliability (the extent to which an instrument or measurement will consistently produce the same result under the same conditions) of the study.

First, reliance on secondary data, such as Youth Justice Conferencing records and recidivism data, means the validity of the study rests upon the accurate collection of data in its primary form. Conferencing records are documented by conference administrators, in accordance with s10 *YOR* 2016. Although human error may occur, it is unlikely that significant errors would remain unchecked throughout the conference planning, preparation, implementation, and follow-up stages. Further, reliability was enhanced by employing administrative data which is available to other researchers. This ensures that reproducibility will be achievable if required. The statistical analyses conducted were also made transparent, with all calculations published in the results of the analysis. This transparency allows for replicability and inter-judge comparisons, both of which enhance reliability.

Second, recidivism is not the most accurate measure of either re-offending or program effectiveness. Limitations of recidivism measures include: inaccuracies propagated by processing delays or offences which go undetected; the impact of unknown mediating or extraneous variables; the assumption that a steady rate of

offending would occur without program intervention; differences in measures of recidivism based on the length of time a cohort is followed; and a reliance on official statistics to determine re-offending (Manning, 2011; Richards, 2011). However, the MoU (2011) identifies recidivism as a key performance indicator. To mitigate these limitations, recidivism will be operationalised as detectable offences committed per-year post-conferencing. Recidivism measures will contribute to an understanding of program outcomes, without being relied upon as the sole measure of effectiveness.

Third, there were no known instruments available to measure program practitioners' perceptions of firefighter involvement in conferencing or the influence this involvement may have on conferencing for YMF. Consequently, the interview schedules were specifically designed for this study. To enhance validity and reliability, the interview schedules underwent a brief pilot study. The program practitioner information package and interview schedules were piloted by up to three participants within each program practitioner group. The pilot study involved completing the telephone interviews in full, with some additional questions to ascertain the clarity, comprehensiveness, and complexity of the information package and the interview schedules. The materials were subsequently refined for the remaining participants in the sample. This is a valid approach given the study is qualitative in nature.

Fourth, content analysis has been criticised for reducing data to a level where concrete information, or detailed data, is lost (Hollway & Jefferson, 2013; Schreier, 2014). This is because a higher level of abstraction is required to classify data according to topics, themes, qualities, or other categorisations. The decontextualisation of qualitative data has the potential to produce misrepresentations and to analyse in isolation what should be studied as a whole (Hollway & Jefferson, 2013). However, this process is important for the identification of patterns and relationships between

variables, and what these patterns may mean at an aggregate level. In fact, by utilising computer-assisted content analysis, data analysis becomes more rigorous (Bazeley & Jackson, 2013). Bazeley and Jackson (2013) stated that qualitative data analysis software ensures the application of a systematic approach, completeness, and the identification of inconsistencies or negative cases. Another limitation imposed by qualitative content analysis is researcher bias, as the researcher must bring their own cultural meaning to the data to interpret the meaning behind the words (Payne & Payne, 2004). Julien (2008) highlighted the need for researchers to recognise the interpretive nature of content analysis, that this interpretation is subjective, reflects multiple meanings, and is context-dependent.

Fifth, only those practitioners who self-selected to participate in an interview were involved in the exploratory component of the study. Although this strategy provided access to an otherwise hidden population, there are inherent problems associated with self-selection. Self-selection bias occurs when there are differences within the population of participants who choose to participate in a study and the target population (Olsen, 2008). For example, respondents may choose to participate in the study for reasons which are systematically related to the phenomena under investigation (Olsen, 2008). Respondents may have self-selected because they felt they had something significant to contribute to the study. Results may therefore reflect extreme or unusual experiences rather than the average experience. Given a lack of available means through which this limitation could be mitigated, all interview data has been analysed within the context of this limitation.

Sixth, telephone interviews asked participants to report directly on their own attitudes, perceptions, and beliefs (Holbrook, 2008). They thus relied on the assumption that respondents were able and willing to answer questions about themselves (Holbrook,

2008). Holbrook (2008) stated that respondents are likely to construct answers based on their theories about their mental processes, or their ideal attitudes and beliefs, rather than actual process, attitudes, and beliefs. This limitation cannot be mitigated, as people's perceptions of themselves inform the way they perceive reality and thus respond to the world. Hollway and Jefferson (2013, p. 3) defined this problem as the 'transparent self problem', the assumption that participants' perceptions of themselves are true, that they "know who they are and what makes them tick". However, perceptions are not reflections of reality, but rather interpretations of reality couched in one's historical, cultural, and social context. This is compounded by the 'transparent account problem' which Hollway and Jefferson (2013) suggested emerges when researchers assume participants are willing and able to relay this truth to others. Telephone interview data will be couched within the research context however, the need to protect the confidentiality of participants negates the collection of historical, social, and cultural information. Findings should be considered with regard to this limitation.

Limitations pertaining to telephone interviewing also include: difficulty in building rapport and trust which may limit the quantity or quality of the data collected (Miller & Salkind, 2002); lack of non-verbal communication or visual cues to assist communication and interpretation (Holt, 2010); and respondent fatigue meaning the length and complexity of the interview must be limited (Lavrakas, 2008). To overcome these limitations, the telephone interview schedules were specifically designed to: employ simple language to enhance comprehension; articulate everything verbally to improve the volume and richness of the text; provide participants with the opportunity to ask for clarification or to make additional comments; provide the researcher with the opportunity to ask probing questions; and be short.

Seventh, there are limitations associated with semi-structured interviews. It is important to recognise that, despite employing a semi-structured interview to elicit in-depth discussion, the interview, and the way in which the participant responds, is essentially informed by the themes, topics, ordering, and wording of the questions imposed by the interviewer (Hollway & Jefferson, 2013). Although this structure aids reliability - consistency, repeatability, and stability of results – it has two detrimental effects. First, imposing structure on expression may lead the participant to respond to concepts that are not of importance to them, or which did not originally feature in their subjective experiences and perceptions. The participant may therefore frame their narratives around the questions, hindering the collection of true subjective experiences. Second, although an interview schedule aids reliability, reliability cannot be fully obtained. This is because the unique interaction between the interviewer and the participant cannot be replicated as meaning is unique to both the individual participants as well as the context in which they interact (Hollway & Jefferson, 2013). To mitigate the limitations, all responses will be considered within the research context. Responses will not be deemed accurate representations of reality, but rather an account of experiences and perceptions which emerged from the interaction between the interviewer and the participant. This approach aligns with the overall theoretical framework informing the methodology of the research, where post-positivism similarly suggests that data is context-dependent, and thus all meaning intersubjective.

Finally, to improve reliability and validity of the study, trustworthiness and credibility were sought by undertaking four forms of triangulation: by seeking negative/contradictory examples; by providing examples for conclusions drawn; by seeking intra-judge reliability; and by utilising a mixed methods design.

## 6.6. Conclusion

Despite a growing body of research pertaining to the study of YMF and its prevention, tertiary prevention of YMF is yet to be theoretically framed or empirically evaluated. To fill this void within existing literature, evaluative research into conferencing for YMF was conducted. Informed by a broad post-positivist approach, a theory approach logic model provided the framework for the evaluation. The method involved strategic and methodological triangulation through the utilisation of two research designs and a mixed methods approach. The retrospective design consisted of quantitative analysis of conferencing records and recidivism data to examine the factors, activities, outputs, and outcomes of the program. The exploratory design included qualitative analysis of program practitioner perceptions to fulfil the theory, factors, activities, outputs, outcomes, and impact stages of the theory approach logic model. Results have been used to address the research questions and to ultimately ascertain if, and how, Youth Justice Conferencing with firefighter involvement facilitates YMF prevention. This research has contributed to existing literature by providing the first empirically-derived evidence-base to inform program verification or modification.

## **Chapter 7: Retrospective Results - Part 1**

### **7.1. Introduction**

This chapter will present the factors, activities, and outputs of the program derived from an analysis of de-identified Youth Justice Conferencing records pertaining to young people who committed a fire-related offence between 1 July 2006 and 30 June 2016. There were 251 records maintained by JJNSW during this time. The data included categorical and continuous variables, all of which will undergo frequency analysis and will be contextualised by existing literature (section 7.2). Chi square  $r \times c$  tests for independence will be conducted to determine if there were any statistically significant associations between firefighter involvement and the categorical variables present in the data (section 7.3). Mann-Whitney U (independent design) tests will be conducted to determine if there were any statistically significant differences in the continuous variables by firefighter involvement (section 7.4).

### **7.2. Descriptive statistics**

Descriptive statistics provide a summary of the data. Frequencies were employed to highlight the number of times each variable occurred within the data. The findings have been briefly contextualised by existing literature.

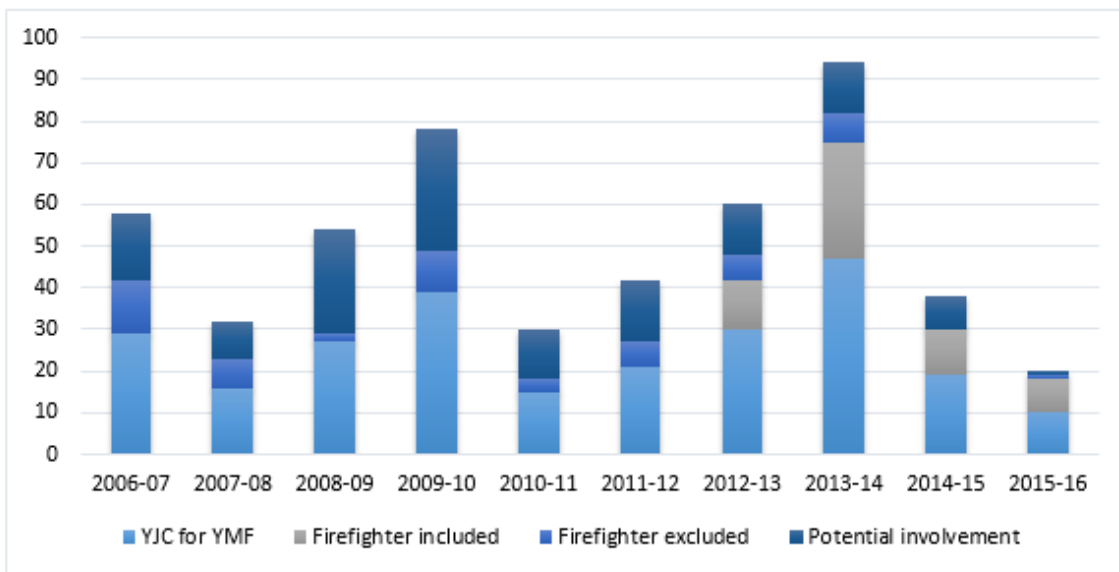
#### **7.2.1. Number of conferences by firefighter involvement**

As displayed in Figure 5, firefighter involvement in Youth Justice Conferencing was not explicitly recorded until the 2012-13 financial year. Thereafter, firefighters were explicitly included in 59 (23.5%) conference records, while 55 (21.9%) records contained no categories under which a firefighter may have been defined as a



participant. The remaining 137 (54.6%) conference records contained categories under which a firefighter may have been defined as a participant, such as a victim's representative, respected community member, or outside agency. Thus, the number of conferencing records which explicitly defined firefighter involvement is likely to be an under-representation and cannot be relied upon as a valid measure of firefighter involvement in Youth Justice Conferencing for YMF.

**Figure 5. Youth Justice Conferencing for YMF by financial year**



### 7.2.2. Demographic variables

For the five demographic variables identified (see Table 4), there was a statistically significant difference ( $p < .001$ ) between the observed data and that expected by chance. This indicates that the demographic characteristics presented herein are likely to portray an accurate representation of young people who committed fire-related offences and subsequently participated in conferencing.

**Table 4. Demographics of young people**

Variable	Category	No. of cases <i>n</i> =	Proportion of sample %
<b>Gender*</b>	Male	227	90.4
	Female	24	9.6
	Total	251	100.0
<b>Age at offence*</b>	10	3	1.2
	11	7	2.8
	12	22	8.8
	13	40	15.9
	14	43	17.1
	15	57	22.7
	16	41	16.3
	17	38	15.1
	Total	251	100.0
<b>Age at conference*</b>	10	1	.4
	11	5	2.0
	12	13	5.2
	13	42	16.7
	14	39	15.5
	15	50	19.9
	16	46	18.3
	17	42	16.7
	18	13	5.2
Total	251	100.0	
<b>Indigeneity*</b>	Aboriginal or Torres Strait Islander	65	25.9
	Non-ATSI	163	64.9
	Unknown	23	9.2
	Total	251	100.0
<b>Ethnicity*</b>	Aboriginal and Torres Strait Islander	2	.8
	Australian	144	57.4
	Australian Aboriginal	54	21.5
	Chilean	1	.4
	Chinese	1	.4
	English	3	1.2
	Guyanese	1	.4
	Iraqi	1	.4
	Lebanese	2	.8
	Macedonian	1	.4
	Maori	3	1.2
	New Zealander	5	2.0
	Russian	1	.4
	Sinhalese	1	.4
	Sudanese	1	.4
	Torres Strait Islander	1	.4
	Turkish	2	.8
	Unknown	26	10.4
	Vietnamese	1	.4
	Total	251	100.0

*p*-values for chi squared test of association: \* *p* < .001

Source: Juvenile Justice NSW

*Gender.* Most young people who participated in conferencing for a fire-related offence were male (90.4%). NSW Attorney General and Justice annual reports show that most young people referred to Youth Justice Conferencing for any offence have historically been male (2010-11; 2011-12). This male over-representation is also reflected within existing literature pertaining to young people who misuse fire (Muller, 2008) and young offenders generally (Australian Bureau of Statistics (ABS), 2016).

*Age at offence.* Most young people engaged in their index offence when they were 15 years of age (22.7%). This was followed closely by 14 year olds (17.1%) and 16 year olds (16.3%). The Tasmanian Sentence Advisory Council (Tasmanian Department of Justice, 2011) conducted an analysis of people charged with arson offences in Tasmania between 2005 and 2010. This study similarly found that most arson charges were laid against persons aged 16, followed closely by those aged 17, 14, and 15 respectively (Tasmanian Department of Justice, 2011). These figures align with existing literature that indicates misuse of fire which comes to the attention of authorities occurs more frequently in people aged 13-16 years than any other age group (Pooley & Ferguson, 2017). This variable also follows the age-crime curve, indicating that young people within the sample are typical of young offenders (see Chapter 2).

*Age at conference.* Most young people were 15 years old (19.9%) when they participated in a conference for a fire-related offence. This was followed closely by 16 year olds (18.3%) and 13 and 17 year olds (16.7%, respectively). Taussig (2012) conducted a descriptive analysis of demographic features of 1,894 young people referred to NSW's Youth Justice Conferencing scheme in 2010. Taussig (2012) found that most young people referred to conferencing in 2010 were 16 years old (24.6%), followed closely by 17 year olds (22.2%). Only 8.9% of Taussig's sample were aged 13 years. Although Taussig did not include data pertaining to 10-12 year olds, these

statistics indicate that young people who participated in conferencing for a fire-related offence between 2006 and 2016 were around the same age as Taussig's sample.

*Indigeneity.* Those who identified as Aboriginal and/or Torres Strait Islander accounted for 25.9% of all young people who participated in conferencing for a fire-related offence. Similarly, Taussig (2012) found that young people who identified as Aboriginal and/or Torres Strait Islander accounted for 29.1% of referrals to conferencing in 2010 for any offence. This over-representation of Indigenous identification reflects that observed within arson statistics (Muller, 2008) and the juvenile justice system generally (Allard et al., 2010). It should also be considered with evidence that young people who identify as Indigenous are less likely to be diverted to conferencing (Allard et al., 2010).

*Ethnicity.* The majority (57.4%) of young people who committed a fire-related offence and subsequently participated in conferencing identified as non-Indigenous Australian. This finding reflects the correlation drawn within existing literature between misuse of fire and Caucasian status (Morris, 2014; Prins, 1994; Santtila, Hakkanen, Alison, & Whyte, 2003; Williams, 2005). However, this majority was not large due to the over-representation of those who identified as Indigenous-Australian, and the diverse array of ethnic minorities represented.

### **7.2.3. Offence variables**

For the five offence variables identified (see Table 5), there was a statistically significant difference ( $p < .001$ ) between the observed data and that expected by chance. This suggests that the data presented herein is likely to accurately represent the number and type of offences committed by young people who participated in conferencing for YMF. Existing literature has been used to contextualise these findings.

**Table 5. Offence variables**

Variable	Category	No. of cases <i>n</i> =	Proportion of sample %
<b>Number of offences*</b>	1	153	61.0
	2	53	21.1
	3	28	11.2
	4	7	2.8
	5	5	2.0
	6	4	1.6
	7	1	.4
	Total	251	100.0
<b>Number of fire-specific offences*</b>	1	239	95.2
	2	12	4.8
	Total	251	100.0
<b>Performed by*</b>	Singular offender	165	65.7
	Group of offenders	86	34.3
	Total	251	100.0
<b>Fire-specific offences*</b>	Cause or set fire to the property of another, or Crown	27	10.8
	Damage property by fire/explosion	46	18.3
	Damage property by fire/explosion (DV)	8	3.2
	Damage property by fire/explosion <\$2000	35	13.9
	Damage property by fire/explosion \$2000-\$5000	14	5.6
	Damage property by fire/explosion \$5000-\$15000	11	4.4
	Damage property by fire/explosion >\$15000	42	16.7
	Damage property by fire/explosion >\$15000 (DV)	5	2.0
	Damage property by fire/explosion - Other	10	4.0
	Destroy property in company, use fire <\$2000	20	8.0
	Destroy property in company, use fire >\$5000	9	3.6
	Destroy property in company, use fire - Other	3	1.2
	Intentionally cause fire and be reckless as to its spread	24	9.6
	Other	9	3.6
	Total	263	-
<b>Non-fire specific co-offences*</b>	Assault	5	2.0
	Be carried in conveyance taken without consent	5	2.0
	Break and enter	22	8.8
	Destroy or damage property	36	14.3
	Drive conveyance taken without consent	10	4.0
	Larceny	21	8.4
	Possess prohibited item	10	4.0
	Unlawful entry	21	8.4
	Other	24	9.6
	Total	154	-

*p*-values for chi squared test of association: \* *p* < .001

DV = domestic violence related offence

Source: Juvenile Justice NSW

*Number of (fire-specific) offences.* Most young people who participated in conferencing for a fire-related offence committed one fire-specific offence (95.2%) and one offence in total (61.0%). As the number of (fire-specific) offences increased, the

proportion of young people who participated in conferencing decreased. These findings align with existing literature that indicates the more concurrent offences a young person has committed, the less likely they are to be diverted from court (Ringland & Smith, 2013).

*Performed by.* Most fire-specific offences were committed by one young person (65.7%) while the remainder were committed with co-offenders (34.3%). Existing literature suggests that solo offending is more prevalent than co-offending (van Mastrigt & Farrington, 2009). However, arson is a crime type most likely to involve multiple offenders and the younger an offender, the more likely they are to co-offend (van Mastrigt & Farrington, 2009). Co-offending is thus common among young people who misuse fire (Uhnoo, 2015), as represented here.

*Fire-specific offences.* The most frequently committed fire-specific offence was damage property by fire/explosion (18.3%), followed by damage property by fire/explosion >\$15000 (16.7%) and damage property by fire/explosion <\$2000 (13.9%). These offences are prescribed under s195 *Crimes Act 1900* (NSW) as indictable offences. Although serious in nature, none of these offences endangered life. This aligns with the legislative framework provided by s8 and s36 *Young Offenders Act* (YOA) 1997 (NSW), *Crimes Act 1990* (NSW) and the *Crimes (Domestic and Personal Violence) Act 2007* (NSW).

*Non-fire-specific co-offences.* The most frequently occurring non-fire-specific concurrent offence was destroy or damage property (14.3%), followed by break and enter (8.8%), larceny, and unlawful entry (8.4%, respectively). Although these non-fire-specific concurrent offences met a level of seriousness that constituted greater intervention than a caution or warning, they met the legislative criteria for referral to conferencing.

#### 7.2.4. Conference variables

For the five conference variables identified (see Table 6), there was a statistically significant difference ( $p < .001$ ) between the observed data and that expected by chance. This indicates that the data presented is likely to accurately portray the referral source, location, and participants within conferencing for young people who committed fire-related offences. Again, these characteristics have been briefly compared with existing literature.

*Referral source.* The majority (67.3%) of referrals to conferencing for young people who committed fire-related offences came from the police. This contrasts with data presented in NSW Department of Justice annual reports which consistently show that most referrals to conferencing have arisen from court (NSW Department of Attorney General and Justice, 2010-11, 2011-12, 2012-13; NSW Department of Police and Justice, 2013-14, 14-15). This finding indicates that most of the fire-related offences in the sample constituted police, rather than court, intervention.

*Location.* Most conferences for young people who committed fire-related offences were convened in major cities (52.2%), followed by inner regional (39.0%), and outer regional (8.8%) areas. The Bureau of Crime Statistics and Research (BOCSAR, 2016) Crime Tool revealed that the average prevalence rate of juvenile arson in NSW between July 2015 to June 2016 was 0-19.2 per 100,000. However, four inner regional areas had a prevalence rate of 19.2-30.2 per 100,000; four inner and one outer regional area had a prevalence rate of 30.2-57.6 per 100,000; three inner regional areas had a prevalence rate of 57.6-99.3 per 100,000; and two inner regional, three outer regional, and one remote area had a prevalence rate of >99.3 per 100,000 (BOCSAR, 2016). These figures indicate that prevalence rates of juvenile arson are higher in inner and outer regional, and remote, areas of NSW than major cities. Yet, conferencing for

**Table 6. Conference variables**

<b>Variable</b>	<b>Category</b>	<b>No. of cases <i>n</i> =</b>	<b>Proportion of sample %</b>
<b>Referral Source*</b>	Court	82	32.7
	Police	169	67.3
	Total	251	100.0
<b>Location*</b>	Major city	131	52.2
	Inner regional	98	39.0
	Outer regional	22	8.8
	Total	251	100.0
<b>Participant type*</b>	Conference convenor	251	100.0
	Firefighter	59	23.5
	Police officer	226	90.0
	Victim	139	55.4
	Victim representative	131	52.2
	Victim support	73	29.1
	Young person	251	100.0
	Young person support	244	97.2
<b>Firefighter*</b>	Recorded involvement	59	23.5
	Potential involvement (not recorded)	137	54.6
	No involvement	55	21.9
	Total	251	100.0
<b>Firefighter role*</b>	Other contact/support	3	5.1
	Outside agency	34	57.6
	Police	1	1.7
	Respected community member	18	30.5
	Social worker	1	1.7
	Victim	2	3.4
	Total	59	100.0

*p*-values for chi squared test of association: \* *p* < .001

Source: Juvenile Justice NSW

fire-related offences have occurred most frequently in major cities. This aligns with existing literature which indicates that conferencing is utilised inconsistently across NSW (Murphy et al., 2010) and is predominantly a metropolitan approach (Richards, Bartels, & Bolitho, 2016). This pattern is likely to reflect differences in resource availability and gatekeeper discretion (Murphy et al., 2010).

*Participant type.* All conferences contained a convenor and a young person, an expected result of the conference process. Most conferences also included support for the young person (97.2%) and a police officer (90.0%) while just over half included a



victim (55.4%) and/or a victim's representative (52.2%). Some of these participation rates reflect that observed within existing literature. Taussig (2012) found that most conferences convened for any offence in 2010 involved a Youth Liaison Officer (68.4%) and a support person for the young offender (>51.2%). NSW Department of Justice annual reports consistently show that most conferences convened for an identifiable victim included a victim or victim's representative (NSW Department of Attorney General and Justice, 2010-11, 2011-12, 2012-13; NSW Department of Police and Justice, 2013-14, 14-15).

*Firefighter.* Firefighter involvement was explicitly recorded in 59 (23.5%) conference records while 55 (21.9%) records contained no categories under which a firefighter may have been defined as a participant. The remaining 137 (54.6%) records contained categories under which a firefighter may have been defined as a participant however, firefighter involvement was not explicitly recorded. Section 59 *YOA* states that a conference administrator must make a record of any conference convened. Section 10 *YOR* 2010 states that, for the purposes of s59 *YOA*, a record of a conference must contain the persons who attended the conference and the capacity in which they attended. The findings of this study do not necessarily represent a failure to comply with this provision but may instead reflect the absence of firefighter involvement and/or differing perspectives as to how to label and define firefighter involvement.

*Firefighter role.* The MoU (2011) states that a firefighter may attend conferencing in the role of a participant. This vests the power of discretion in a conference convenor to define the capacity in which firefighter involvement is defined. When firefighter involvement was recorded, most of the time the firefighter was defined as an outside agency (57.6%), while almost a third of the time a firefighter was defined as a respected community member (30.5%).

### 7.2.5. Outcome plan variables

For the six outcome plan variables identified (see Table 7), there was a statistically significant difference ( $p < .001$ ) between the observed data and that expected by chance. This suggests that the data presented below is likely to accurately represent the number and type of outcome plan tasks implemented for young people who participated in conferencing for YMF. These findings have been contextualised by existing literature.

*Number of outcome plan tasks.* Most outcome plans contained three tasks (32.7%), followed by four tasks (27.5%), and two tasks (20.3%), with an average 3.1 tasks. These findings are similar to Taussig's (2012) study when most outcome plans contained two tasks (42.4%), followed by three tasks (28.5%), and one task (19.5%), with an average 2.3 tasks. Young people who committed fire-related offences between 2006 and 2016 had, on average, one more task to complete than young people who committed any offence in 2010. This may be because outcome plans for bushfire/arson juvenile offenders must include at least one fire-specific task, as per s8 YOR 2010.

*Type of outcome plan task.* A written apology (57.4%) was the most frequent outcome plan task implemented, followed by participation in a behavioural program (43.8%), completion of a behavioural undertaking (36.7%), and a verbal apology (29.5%). These findings reflect existing literature which identifies the writing of an apology as one of the most frequent outcome plan tasks undertaken (Taussig, 2012). These figures also align with outcome plan tasks implemented for all offences in 2010 when 64.5% included a written apology, 35.2% a behavioural program, 31.7% a verbal apology, and 22.5% a behavioural undertaking (Taussig, 2012).

**Table 7. Outcome plan variables<sup>3</sup>**

Variable	Category	No. of cases <i>n</i> =	Proportion of sample %
<b>Number of outcome plan tasks*</b>	0	6	2.4
	1	19	7.6
	2	51	20.3
	3	82	32.7
	4	69	27.5
	5	12	4.8
	6	7	2.8
	7	4	1.6
	8	1	.4
	Total	251	100.0
<b>Type of outcome plan task*</b>	Apology - verbal	74	29.5
	Apology - written	144	57.4
	Behavioural program	110	43.8
	Behavioural undertaking	92	36.7
	Charity work	8	3.2
	Community service	76	30.3
	Financial reparation	18	7.2
	Gift in kind	3	1.2
	Personal development	58	23.1
	School performance	3	1.2
	Study option	30	12.0
	Work for victim	33	13.1
	Work option	7	2.8
	Total number of plans	251	-
<b>Number of fire- specific outcome plan tasks*</b>	0	67	26.7
	1	91	36.3
	2	76	30.3
	3	17	6.8
	Total	251	100.0
<b>Type of fire- specific outcome plan task*</b>	Apology made to Fire Brigade	34	18.5
	Attend fire safety program	14	7.6
	Clean up operations	2	1.1
	Complete fire safety project	65	35.3
	Listen to fire safety talk	27	14.7
	Watch fire safety video	132	71.7
	Work experience with Fire Brigade	16	8.7
	Total number of fire-specific plans	184	-
<b>Inappropriate tasks</b>	Referral to burns unit	2	1.1
	Referral to secondary prevention program	5	2.7
	Total number of fire-specific plans	184	-
<b>Outcome plan status*</b>	Completed	212	84.5
	Not completed	21	8.4
	In progress	12	4.8
	Unknown/Not applicable	6	2.4
	Total	251	100.0

*p*-values for chi squared test of association: \* *p* < .001

Source: Juvenile Justice NSW

<sup>3</sup> Two young people participated in a second YJC after being referred to court for failing to complete their first outcome plans. The details of the first outcome plans were not included in the analysis. One young person participated in a second YJC after forgetting to attend the first YJC. The outcome plan tasks

*Number of fire-specific outcome plan tasks.* Most outcome plans contained one fire-specific outcome plan task (36.3%), while 30.3% contained two fire-specific tasks, and 26.7% contained no fire-specific tasks. Outcome plans contained an average of 1.6 fire-specific tasks. Section 8 YOR 2010 states that an outcome plan for a bushfire/arson juvenile offender must provide for the inclusion of a fire-specific outcome plan task. However, these findings show that 26.7% of young people who committed a fire-related offence and subsequently participated in conferencing did not complete a fire-specific outcome plan task.

*Type of fire-specific outcome plan task.* Of the 184 fire-specific outcome plans created, the majority included the viewing of a fire safety video (71.7%). Other frequently occurring fire-specific tasks included fire safety projects such as the completion of a home fire escape plan or an assignment on the consequences of fire (35.3%), and a written apology made to a fire brigade which included lessons learned about the consequences of fire (18.5%).

*Inappropriate tasks.* Seven of the fire-specific tasks implemented were inappropriate. Two involved referral to a burns unit which occurred prior to 2010 when this task was deemed inappropriate by the Attorney General's Department (2010). Five of the tasks involved referral to FRNSW's secondary prevention program which occurred after 2006 when this task was deemed inappropriate by FRNSW and JJNSW (FRNSW, 2014d).

*Outcome plan status.* Most outcome plans were completed (84.5%) with a small proportion not completed (8.4%), still in progress (4.8%), or unknown (2.4%). The NSW Department of Justice Annual Report (2014-15) stated that, in 2014-15, 86.9% of

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implemented in this participant's absence in the first YJC, and in his presence in the second YJC, were combined and included in the analysis.

outcome plans were completed by all young people who participated in conferencing in NSW. In 2013-14 the completion rate was 88.8%, in 2012-13 it was 89.7% and in 2011-12 it was 87.5% (NSW Department of Justice, 2014-15, p. 61). This data indicates that young people who participated in conferencing for a fire-related offence had a similar completion rate as those who participated in conferencing for any offence.

#### 7.2.6. Time intervals

The time between offence, referral, conference, and completion (see Table 8) have been contextualised by existing literature. The median, the middle value when all scores are ranked, was used as the measure of central tendency because the data was not normally distributed and remained so after log-normalisation.

**Table 8. Time between offence, referral, conference, and completion**

Time Period	Days			
	Minimum	Maximum	Range	Median
Offence to referral	2	662	660	72
Offence to conference	194	446	252	320
Referral to conference	44	296	252	170
Conference to completion	1	452	451	100

Source: Juvenile Justice NSW

*Offence to referral.* The median time from the date of the index offence to the referral date was 72 days. Pursuant to s37 YOA, prior to a young person being referred to Youth Justice Conferencing, the young person must: have committed an offence which can be dealt with under a conference; admit guilt to the offence; consent to the holding of a conference; and be entitled to be dealt with by holding a conference. There are no specified timeframes within which such processes should be completed.

*Offence to conference.* The median time from the date of the index offence to the first conference date was 320 days<sup>4</sup>. In a comparison study of Youth Justice Conferencing and Children's Court data derived from NSW in 2010, Moore (2011b) found that the median time from first charge date to conferencing date for police-referred conferences was 55 days, and for court-referred conferences was 128 days. The median time to finalisation for young people who committed fire-related offences between July 2006 and June 2016 was therefore significantly greater than time to finalisation for any offence in 2010.

*Referral to conference.* The median time between referral to a conference and the first conference date was 170 days. Section 43 YOA states that a conference should be held no later than 28 days after referral is received by the conference administrator. The median time taken from referral to conferencing is therefore significantly greater than that expected by the legislation. This period was also significantly greater (>108 days) than that identified by Taussig (2012) in her analysis of conferences convened for any offence in 2010.

*Conference to completion.* The median time from the first conference date to completion of the outcome plan task, and thus completion of the outcome plan, was 100 days. The JJNSW (2012) Guidelines for the Management and Conduct of Conferences state that an outcome plan should generally be completed within six months, or 182 days. Taussig (2012) found that the median time between participation in conferencing and outcome plan completion for young people who committed any offence in 2010 was 76 days. On average, young people who participated in conferencing for a fire-

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<sup>4</sup> Three young people participated in a second YJC for their index offence. Two young people participated in a second YJC after being referred to court for failing to complete their first outcome plans. The dates of these second YJCs were not included in the analysis. One young person participated in a second YJC after forgetting to attend the first YJC. The date of the first YJC was not included in the analysis.

related offence took longer to complete their outcome plans than Taussig's sample, but were within the six-month timeframe prescribed by JJNSW.

### 7.3. Measures of association

Chi square  $r \times c$  tests for independence were performed to determine if there were any statistically significant associations between firefighter involvement and each of the categorical variables within the data. Only data which explicitly included ( $n = 59$ ) or excluded ( $n = 55$ ) firefighter involvement was analysed.

Chi square tests have underlying assumptions which must be met to ensure validity of results. Chi square necessitates the use of categorical variables (Dancey & Reidy, 2011). The variables collected from conferencing records were both categorical and continuous in nature however, only those variables which were categorical have been employed within this analysis. Chi square tests also require mutually exclusive variables (Dancey & Reidy, 2011). Each variable and each of its associated levels could only be classified within one category. Chi square tests assume that no cell within a contingency table contains a frequency of less than one, while no more than 25.0% of cells contain an expected frequency of less than five (Dancey & Reidy, 2011). Finally, the total number of cell frequencies must equal the total number of participants (Dancey & Reidy, 2011). Frequency analysis, and the consolidation of categories where necessary, ensured the minimum cell and total cell frequency assumptions were upheld.

Chi square  $r \times c$  tests for independence revealed statistically significant associations between firefighter involvement and seven categorical variables (see Table 9). The chi square values suggest there exists a discrepancy between the observed data and that expected under the null hypothesis. The null hypothesis assumes that all levels of the categorical variables would maintain proportionate frequencies regardless of

firefighter involvement. A deviation from the null suggests that there are associations between firefighter involvement and the categorical variables identified.

**Table 9. Chi square *r x c* tests for independence (records)**

<i>r x c</i>	Cross tabulation variables		<i>df</i>	$\chi^2$	Asymp. Sig. (2-sided)	Cramer's <i>V</i>
2 x 4	Firefighter	Ethnicity	3	4.767	.190	.204
2 x 3	Firefighter	Fire-specific outcome	1	7.989**	.005	.265
2 x 2	Firefighter	Gender	1	0.232	.630	.045
2 x 3	Firefighter	Indigeneity <sup>a</sup>	1	.0910	.340	.091
2 x 3	Firefighter	Location	2	3.226	.199	.168
2 x 4	Firefighter	Outcome plan status <sup>b</sup>	3	7.316	.062	.253
2 x 2	Firefighter	Referral source	1	4.938*	.026	.208
2 x 2	Firefighter	Task - Behaviour	1	2.744	.098	.155
2 x 2	Firefighter	Task - Comm. service	1	0.076	.783	.026
2 x 2	Firefighter	Task - Financial	1	1.155	.283	.101
2 x 2	Firefighter	Task - Pers. Dev.	1	4.910*	.027	.208
2 x 2	Firefighter	Task - Program	1	0.156	.693	.037
2 x 2	Firefighter	Task - Study	1	11.759***	.001	.321
2 x 2	Firefighter	Task - Work for victim	1	2.588	.108	.151
2 x 2	Firefighter	Task - Written apology	1	2.229	.135	.140
2 x 2	Firefighter	Task - Verbal apology	1	.041	.840	.019
2 x 2	Firefighter	Fire task - Activity	1	1.417	.234	.111
2 x 2	Firefighter	Fire task - Apology	1	0.184	.668	.040
2 x 2	Firefighter	Fire task - Fire video	1	25.741***	.000	.475
2 x 2	Firefighter	Fire task - Talk	1	1.187	.276	.102
2 x 2	Firefighter	Fire task - Other	1	4.427*	.035	.197
2 x 2	Firefighter	Victim	1	6.621**	.010	.241

N = 114 for all variables except <sup>a</sup>N = 110, <sup>b</sup>N = 104

Statistical significance: \*\*\*p<.001, \*\*p<.01, \*p<.05

Seven statistically significant measures of association were identified in the data.

Cross-tabulations, as displayed in Table 10, provide deeper insight into these associations.

*Fire safety video.* A highly statistically significant ( $p<.001$ ) association was identified between firefighter involvement and the viewing of a fire safety video as a component of an outcome plan ( $\chi^2 (1, N = 114) = 25.74, p < .001$ ). Cross tabulation revealed that young people were more likely to view a fire safety video when they participated in a conference with a firefighter (71.6%).



**Table 10. Cross tabulations for firefighter associations (records)**

Category	Sub-category	N =	Firefighter	n =	n/N (%)
Fire safety video	Viewed	67	Yes	48	71.6
			No	19	28.4
	Not viewed	47	Yes	11	23.4
			No	36	76.6
Study option	Undertaken	10	Yes	0	0.0
			No	10	100.0
	Not undertaken	104	Yes	59	56.7
			No	45	43.3
Victim	Present	69	Yes	29	42.0
			No	40	58.0
	Absent	45	Yes	30	66.7
			No	15	33.3
Outcome plan	Fire-specific	86	Yes	51	59.3
			No	35	40.7
	Not fire-specific	28	Yes	8	28.6
			No	20	71.4
	Inappropriate	2	Yes	0	0.0
			No	2	100.0
Referral source	Police	70	Yes	42	60.0
			No	28	40.0
	Court	44	Yes	17	38.6
			No	27	61.4
Personal dev.	Undertaken	27	Yes	19	70.4
			No	8	29.6
	Not undertaken	87	Yes	40	46.0
			No	47	54.0
Other fire task	Undertaken	10	Yes	2	20.0
			No	8	80.0
	Not Undertaken	104	Yes	57	54.8
			No	47	45.2

*Study option.* A highly statistically significant ( $p < .001$ ) association was observed between firefighter involvement and the undertaking of a study option as a component of an outcome plan ( $\chi^2 (1, N = 114) = 11.76, p = .001$ ). Further analysis indicated that young people were more likely to undertake a study option when they participated in a conference without a firefighter (100.0%).

*Victim.* A statistically significant ( $p < .01$ ) association was identified between firefighter involvement and victim presence ( $\chi^2 (1, N = 114) = 6.62, p = .01$ ). Firefighters were more likely to participate in a conference when a victim was absent

(66.7%) and were less likely to participate in a conference when a victim was present (42.0%).

*Outcome plan.* A statistically significant ( $p < .01$ ) association was observed between firefighter involvement and outcome plan fire-specificity ( $\chi^2 (1, N = 114) = 7.99, p = .005$ ). An outcome plan was more likely to be fire-specific when it arose from a conference that involved a firefighter (59.3%). Conversely, an outcome plan was more likely to contain nil fire-specific tasks when it arose from a conference that did not include a firefighter (71.4%). Finally, an outcome plan was more likely to contain an inappropriate task when it arose from a conference that did not include a firefighter (100.0%).

*Referral source.* A borderline statistically significant ( $p < .05$ ) association was identified between firefighter involvement and referral source ( $\chi^2 (1, N = 114) = 4.94, p = .026$ ). A firefighter was more likely to be involved in a conference when a young person was referred by the police (60.0%). On the other hand, a firefighter was less likely to be involved in a conference when a young person was referred by the court (38.6%).

*Personal development task.* A borderline statistically significant ( $p < .05$ ) association was observed between firefighter involvement and the undertaking of a personal development task ( $\chi^2 (1, N = 114) = 4.91, p = .027$ ). Personal development tasks included volunteering with the fire brigade, conducting a home fire safety audit, completing an assignment on fire safety, and/or other fire-related tasks. Young people were more likely to undertake one of these tasks when they participated in a conference with a firefighter (70.4%).

*Other fire-specific tasks.* Finally, a borderline statistically significant ( $p < .05$ ) association was identified between firefighter involvement and other fire-specific

outcome plan tasks ( $\chi^2 (1, N = 114) = 4.43, p = .035$ ). Other fire-specific tasks included attendance at a fire safety program, work experience with the fire service, and/or assistance with clean-up operations. Young people were more likely to undertake one of these tasks when they participated in a conference without a firefighter (80.0%).

### 7.3. Analysis of variance

Mann-Whitney U (independent design) tests were conducted to identify any statistically significant differences in Youth Justice Conferencing record content by firefighter involvement. Mann-Whitney U uses the ranks of scores to calculate differences between the mean ranks of two conditions (Dancey & Reidy, 2011). There are no assumptions which must be met for Mann-Whitney U however, the data must be numerical and not normally distributed (Dancey & Reidy, 2011). Only those variables which were numerical were used in the analysis. Except for the variables age at offence and age at conference, data was not normally distributed and remained so after log-normalisation. Mann-Whitney U calculations were thus applied to the original data. Again, only data which explicitly included ( $n = 59$ ) or excluded ( $n = 55$ ) firefighter involvement was used.

**Table 11. Mann-Whitney U test statistics (records)**

Condition	U	Z	Asymp. Sig.
Age at conference	1406.500	-1.243	.214
Age at offence	1454.000	-.967	.334
Offence to referral	1343.500	-1.445	.148
Referral to conference	271.000	-7.664**	.000
Conference to completion	1281.500	-.430	.667
# fire-specific offences	1502.500	-1.759	.079
# fire-specific outcome plan tasks	855.000	-.377	.706
# offences	1285.500	-2.162*	.031
# offenders	1221.500	-2.559*	.011
# outcome plan tasks	1342.000	-1.659	.097

N = 114

Statistical significance: \*\*  $p < .001$ , \*  $p < .05$

There were three statistically significant differences identified within the data (see Table 11). Descriptive statistics provide further insight into the nature of these differences, as displayed in Table 12. The median was deemed the most suitable measure of central tendency because the data was not normally distributed, and Mann-Whitney U tests calculated differences between groups based on mean ranks.

**Table 12. Descriptive statistics for significant Mann-Whitney U tests (records)**

Condition	Firefighter	Median	Minimum	Maximum	Range
Referral to conference	Absent	139	44	295	251
	Present	251	175	296	121
Number of offenders	Absent	1	1	3	2
	Present	2	1	4	3
Number of offences	Absent	2	1	7	6
	Present	1	1	6	5

*Referral to conference.* A highly statistically significant ( $p < .001$ ) difference was observed in referral to conference by firefighter involvement ( $U = 271.00$ ,  $Z = -7.66$ ,  $p < .001$ ,  $r = .72$ ). The number of days between referral and participation in first conference was greater when a firefighter was present ( $Mdn = 251$ ) than when a firefighter was absent ( $Mdn = 139$ ).

*Number of offenders.* A borderline statistically significant ( $p < .05$ ) difference was identified in number of offenders by firefighter involvement ( $U = 1221.50$ ,  $Z = -2.56$ ,  $p = .011$ ,  $r = .24$ ). The number of offenders involved in an index offence was greater when a firefighter was present ( $Mdn = 2$ ) than when a firefighter was absent ( $Mdn = 1$ ).

*Number of offences.* A borderline statistically significant ( $p < .05$ ) difference was observed in number of offences by firefighter involvement ( $U = 1285.50$ ,  $Z = -2.16$ ,  $p = .031$ ,  $r = .20$ ). The number of offences dealt with by a conference was greater when a firefighter was absent ( $Mdn = 2$ ) than when a firefighter was present ( $Mdn = 1$ ).

## 7.4. Conclusion

With minor exceptions, univariate analysis of conferencing records pertaining to young people who participated in a conference for YMF between 1 July 2006 and 30 June 2016 revealed strong parallels with existing literature. This consensus supports the reliability and validity of the findings derived from this study. It also indicates that young people within the sample were typical of young offenders, and that the characteristics of the conferences within the sample were typical of conferences more broadly.

Despite these similarities, bivariate analysis revealed that firefighter involvement had a statistically significant relationship with conferencing processes and outcomes. Measures of association revealed that when a firefighter was present, young people were more likely to be referred by police, to undertake an outcome plan that was fire-specific and not inappropriate, and to view a fire safety video and/or undertake a personal development task as a component of this outcome plan. When a firefighter was absent, young people were more likely to undertake a study option as a component of their outcome plan, and were more likely to undertake fire-specific tasks which did not fit into existing categories and occurred infrequently. When a firefighter was present, the conference was less likely to involve a victim. Analysis of variance revealed that when a firefighter was present, the time between referral and participation in first conference was significantly longer, the number of offenders involved in the index offence was slightly higher, and the number of offences dealt with by a conference was slightly lower. These findings and the influence firefighters have on conference process and outcomes are discussed further in Chapter 10.

## **Chapter 8: Retrospective Results - Part 2**

### **8.1. Introduction**

This chapter will present the outcomes of the program, operationalised by measures of recidivism. Recidivism is an outcome because it is identified as a key performance indicator of the program. Recidivism data was provided by the NSW Bureau of Crime Statistics and Research (BOCSAR) Re-Offending Database (ROD) for all young people who participated in a conference for YMF between 1 July 2006 and 30 June 2016. Descriptive statistics will provide frequencies for all categorical or continuous variables within the data (section 8.2). Survival analysis will then be employed to determine time to recidivism per year post-conferencing (section 8.3). This will be followed by comparative analysis to determine if there were any differences in categorical and continuous variables by firefighter involvement (section 8.4). Finally, cox proportional hazards regression will be used to test whether any of the fire-specific variables were covariates (predictors) of risk of recidivism (section 8.5).

### **8.2. Descriptive analysis**

There were 251 records pertaining to young people who committed a fire-related offence between 1 July 2006 and 30 June 2016, as maintained by JJNSW. These records were used by BOCSAR to search within the ROD for recidivism data. Of the 251 records maintained by JJNSW, BOCSAR identified four JJNSW records that were not matched to ROD because outcome plans were not completed, which is outside the scope for ROD. A further 29 JJNSW records matched to ROD, but did not match on conference date. Analysis revealed that outcome plans were not completed in these cases, which is outside the scope for ROD. Due to missing data, these 33 records were

removed from the data set. A remaining three records held two entries each. These records had two different index conference dates matched against their case IDs for the same index offence. To avoid duplication, the record corresponding with the conference date which correlated with a completed outcome plan was included. After cleaning, 218 records remained.

### **8.2.1. Descriptive analysis of BOCSAR sample**

The following descriptive statistics were derived from the 218 records maintained by BOCSAR. Descriptive statistics provide a summary of the data. Frequencies have been employed to show the number of times each categorical and continuous variable occurred within the data.

#### **8.2.1.1. Demographic variables**

For the seven demographic variables identified, there was a statistically significant difference ( $p < .05$ ) between the observed data and that expected by chance (see Table 13). This indicates that the demographic characteristics presented below are likely to accurately represent young people who committed fire-related offences and subsequently participated in conferencing. The characteristics of the first four variables (gender, age at index, Indigeneity, and ethnicity) reflect those identified in Chapter 7. For contextualisation, refer to Chapter 7. For the remaining three variables, characteristics have been contextualised using existing literature.

*Gender.* Most young people in the sample identified as male (90.8%).

*Age at index.* Most young people were 15 (23.4%) or 16 (21.1%) years old when they committed their index offence.

**Table 13. Demographic details at index contact**

Variable	Category	No. of cases <i>n</i> =	Proportion of sample %
Gender*	Female	20	9.2
	Male	198	90.8
	Total	218	100.0
Age at index*	10	1	.5
	11	5	2.3
	12	8	3.7
	13	32	14.7
	14	28	12.8
	15	51	23.4
	16	46	21.1
	17	34	15.6
	18	13	6.0
Total	218	100.0	
Indigeneity*	Aboriginal and Torres Strait Islander	46	21.1
	Non-ATSI	150	68.8
	Unknown	22	10.1
	Total	218	100.0
Ethnicity*	Aboriginal and Torres Strait Islander	2	.9
	Australian	133	61.0
	Australian Aboriginal	35	16.1
	Chilean	1	.5
	Chinese	1	.5
	English	3	1.4
	Guyanese	1	.5
	Iraqi	1	.5
	Lebanese	1	.5
	Macedonian	1	.5
	Maori	2	.9
	New Zealander	4	1.8
	Russian	1	.5
	Sinhalese	1	.5
	Sudanese	1	.5
	Torres Strait Islander	1	.5
	Turkish	2	.9
	Unknown	26	11.9
	Vietnamese	1	.5
Total	218	100.0	
SEIFA Quartile*	1	66	30.3
	2	62	28.4
	3	48	22.0
	4	36	16.5
	Total (missing)	212 (6)	-
ARIA remoteness* index	Major city	69	31.6
	Inner regional	70	32.1
	Outer regional	52	23.9
	Remote	3	1.4
	Very remote	17	7.8
	Total (missing)	211 (7)	-
Risk Needs rank*	Low	5	2.3
	Medium	27	12.4
	Medium-High	33	15.1
	High	2	.9
	Total (missing)	67 (151)	-

*p*-values for chi squared test of association: \* *p*<.05

Source: Juvenile Justice NSW, NSW Bureau of Crime Statistics and Research



*Indigeneity.* Young people who identified as non-Aboriginal accounted for most of the sample (68.8%), while those who identified as Aboriginal and/or Torres Strait Islander accounted for 21.1% of the sample.

*Ethnicity.* Most (61.0%) young people within the sample identified as non-Indigenous Australian.

*SEIFA Quartile.* SEIFA (Socioeconomic Indexes for Areas) is an Australian Bureau of Statistics (ABS) measure that ranks areas in Australia according to relative socioeconomic advantage and disadvantage, based on 2011 census data (ABS, 2013). On a scale of 1 to 4, quartile 1 is most disadvantaged, quartile 4 is least disadvantaged. Participant's residential postcode was used to identify SEIFA Quartile for each young person. Most (30.3%) young people within the sample had a residential address which fell in quartile 1, followed closely by quartile 2 (28.4%). In fact, as degree of disadvantage increased, the proportion of young people increased. This finding aligns with existing literature which suggests young people who engage in YMF, and offending generally, are more likely to be socioeconomically disadvantaged (Chandler, Chapman, & Hallington, 1984; Corcoran et al., 2007; Corcoran, Higgs, Rohde, & Chhetri, 2011; Corcoran et al., 2012; Drabsch, 2003; Gannon, 2010; Heath et al., 1983; Law & Quick, 2013; Prestemon & Butry, 2005).

*ARIA remoteness.* ARIA (Accessibility/Remoteness Index of Australia) is an ABS measure of remoteness, based on 2011 census data (ABS, 2014). ARIA is the mean value of each Census Collection District. The higher the ARIA value, the more remote an area (ABS, 2014). Participant's residential postcode was used to identify ARIA value for each young person. Most young people within the sample had a residential address which fell within an ARIA value equivalent to an inner regional area (32.1%) or major city (31.6%). As detailed in Chapter 7, prevalence rates of juvenile

arson are higher in inner and outer regional, and remote areas of NSW than major cities. This finding aligns with existing literature which indicates that conferencing is utilised inconsistently across NSW (Murphy et al., 2010) and is predominantly a metropolitan approach (Richards et al., 2016).

*Risk Needs rank.* Scores were derived from the Youth Level of Service/Case Management Inventory assessment performed by JJNSW prior to each young person's conference date. If no assessment was completed prior, the earliest assessment date was provided. The higher the score, the higher the risk, and the more criminogenic needs a young person possesses. Of the 67 young people that underwent a Risk Needs assessment, most were categorised in the medium-high (49.3%) or medium (40.3%) category. This aligns with existing literature that shows young people who engage in YMF often have high levels of criminogenic need (Ducat et al., 2013a). However, there was a large amount of missing data (69.3%), meaning this finding may not be representative of the sample.

#### **8.2.1.2. Index offence variables**

For the six index offence variables identified, there was a statistically significant difference ( $p < .05$ ) between the observed data and that expected by chance for five of the variables (see Table 14). This indicates that the data presented below is likely to accurately portray the characteristics of index offences committed by young people who participated in conferencing for YMF. The characteristics of these variables have been contextualised using existing literature.

*ANZSOC classification of index offence.* The majority (77.5%) of young people in the sample committed an index offence classified as property damage by

**Table 14. Index offence details for index contact**

Variable	Category	No. of cases <i>n</i> =	Proportion of sample %
ANZSOC classification of index offence*	1211 Property damage by fire or explosion	169	77.5
	1219 Property damage, nec	21	9.6
	1624 Transport regulation offence	1	.5
	1629 Public health and safety offences, nec	27	12.4
	Total	218	100.0
ANZSOC classification of principle offence*	213 Common assault	1	.5
	532 Threatening behaviour	1	.5
	711 Unlawful entry with intent	2	.9
	811 Theft of a motor vehicle	1	.5
	812 Illegal use of a motor vehicle	4	1.8
	1041 Possess illicit drug	1	.5
	1211 Property damage by fire or explosion	167	76.6
	1219 Property damage, nec	14	6.4
	1319 Disorderly conduct	1	.5
	1569 Offences against justice procedures	2	.9
	1624 Transport regulation offence	1	.5
	1629 Public health and safety offences, nec	23	10.6
	Total	218	100.0
Seriousness index of principle offence*	< 50	174	79.8
	51 - 100	28	12.8
	>100	16	7.3
	Total	218	100.0
No. of counts of index offence	1	218	100.0
	Total	218	100.0
No. of concurrent charges at index*	1	122	56.0
	2	44	20.2
	3	15	6.9
	4	9	4.1
	5	5	2.3
	6	8	3.7
	7	3	1.4
	8	3	1.4
	9	4	1.8
	>10	5	2.3
	Total	218	100.0
No. property damage offences at index*	0	26	11.9
	1	141	64.7
	2	28	12.8
	3	10	4.6
	4	3	1.4
	5	6	2.8
	6	2	.9
	8	1	.5
	12	1	.5
	Total	218	100.0

*p*-values for chi squared test of association: \* *p*<.05

Source: NSW Bureau of Crime Statistics and Research

fire/explosion. This finding mirrors that identified in Chapter 7 and suggests that this is the most common offence dealt with by conferencing for YMF.

*ANZSOC classification of principle offence.* The majority (76.6%) of young people in the sample committed a principle offence classified as property damage by fire/explosion. This means that property damage by fire/explosion was the only, or most serious, offence committed by young people within the sample. Two young people (0.9%) committed an offence more serious than property damage by fire/explosion meaning this other offence was the most serious, and thus the principle offence leading to referral and participation in conferencing.

*Seriousness index of principle offence.* BOCSAR classifies seriousness of offences using the Median Severity Ranking (MSR) scale. BOCSAR did not elucidate how this scale was calculated but did state that the lower the value, the more serious the offence. Most (79.8%) young people in the sample committed a principle offence valued below 50 on the MSR, meaning they committed an offence deemed most serious. This suggests that the offences committed were deemed more serious than that which could have been dealt with via a warning or a caution, yet which met the legislative criteria for referral to conferencing.

*Number of counts of index offence.* All young people committed one count of their index offence.

*Number of concurrent charges at index.* The majority (56.0%) of young people were charged with one offence at the time of their index offence. This means that most young people were referred to conferencing for YMF for one fire-related offence. As concurrent offences increased, the proportion of young people responsible for these offences decreased. Again, these results reflect those in Chapter 7 and existing literature that indicates the more concurrent offences a young person has committed, the less likely they are to be diverted from court (Ringland & Smith, 2013).

*Number of property damage offences at index.* Most (64.7%) young people committed one property damage offence at time of index offence, with 12.8% committing two property damage offences at time of index offence. Twenty-six (11.9%) young people did not commit a property damage offence at time of index. For these 26 young people, their fire-related index offence may have been classified as a transport regulation offence or an offence against public health and safety, as observed in ANZSOC classification of index offence.

### **8.2.1.3. Conference and outcome plan variables**

For the nine conference and outcome plan variables identified, there was a statistically significant difference ( $p < .05$ ) between the observed data and that expected by chance (see Table 15). This indicates that the data presented herein is likely to accurately represent the characteristics of the conferences and outcome plans for young people who participated in conferencing for YMF. The characteristics of the nine variables identified within the data reflect those discussed in Chapter 7. For contextualisation, refer to Chapter 7.

*Referral source.* The majority (66.5%) of young people in the sample were referred to conferencing for YMF by police. Only one-third of the sample were referred by a court.

*Firefighter.* Of the 218 records analysed, 125 (57.3%) contained categories under which a firefighter may have been defined as a participant however, firefighter involvement was not explicitly recorded. Firefighter involvement was explicitly included in 45 (20.6%) records and explicitly excluded in 48 (22.0%) records.

**Table 15. Conference and outcome plan details for index contact**

Variable	Category	No. of cases n =	Proportion of sample %
Referral source*	Court	73	33.5
	Police	145	66.5
	Total	218	100.0
Firefighter*	Recorded involvement	45	20.6
	Potential involvement (not recorded)	125	57.3
	No involvement	48	22.0
	Total	218	100.0
Firefighter role*	Outside agency	23	51.1
	Respected community member	16	35.6
	Victim	1	2.2
	Other	5	11.1
	Total recorded involvement	45	100.0
Number of outcome plan tasks*	1	14	6.4
	2	45	20.6
	3	73	33.5
	4	64	29.4
	5	11	5.0
	6	6	2.8
	7	4	1.8
	8	1	.5
	Total	218	100.0
Type of outcome plan task*	Apology - verbal	66	30.3
	Apology – written	133	61.0
	Behaviour program	95	43.6
	Behaviour undertaking	82	37.6
	Charity work	6	2.8
	Community service	71	32.6
	Financial compensation	17	7.8
	Gift in kind	3	1.4
	Personal development	55	25.2
	School attendance	3	1.4
	Study option	27	12.4
	Work experience	7	3.2
	Work for victim	30	13.8
Fire-specific outcome plan*	Yes	169	77.5
	No	49	22.5
	Total	218	100.0
No. of fire-specific tasks*	0	49	22.5
	1	86	39.4
	2	68	31.2
	3	15	6.9
	Total	218	100.0
Fire-specific outcome plan task*	Apology - verbal	8	4.7
	Apology - written	17	10.1
	Apology – verbal and written	5	3.0
	Clean-up operations	2	1.2
	Fire safety video	119	70.4
	Fire safety talk	23	13.6
	Fire safety program	13	7.7
	Fire safety activity	61	36.1
	Work experience with Fire Brigade	15	8.9
	Inappropriate task	7	4.1
	Total fire-specific outcome plans	169	100.0

Outcome plan completion*	Completed	214	98.2
	In progress	4	1.8
	Total	218	100.0

*p*-values for chi squared test of association: \*  $p < .05$

Source: Juvenile Justice NSW, NSW Bureau of Crime Statistics and Research

*Firefighter role.* When firefighter involvement was recorded, the firefighter was defined most often as an outside agency (51.1%), followed by a respected community member (35.6%).

*Number of outcome plan tasks.* Most outcome plans contained three tasks (33.5%), followed by four tasks (29.4%), and two tasks (20.6%), with an average of 3.2 tasks.

*Type of outcome plan task.* Most (61.0%) young people agreed to complete a written apology letter as a component of their outcome plan. This was followed by participation in a behavioural program (43.6%) and a behavioural undertaking (37.6%).

*Fire-specific outcome plan.* The majority (77.5%) of outcome plans were fire-specific. That is, they contained at least one fire-specific task.

*Number of fire-specific tasks.* Most (39.4%) outcome plans contained one fire-specific outcome plan task, 31.2% contained two fire-specific tasks, and 22.5% contained no fire-specific tasks, with an average of 1.2 fire-specific tasks.

*Fire-specific outcome plan task.* Of the 169 outcome plans that were fire-specific, the majority (70.4%) included the viewing of a fire safety video. Other frequently occurring fire-specific tasks included fire safety activities such as the completion of a home fire escape plan (36.1%) and listening to a fire safety talk (13.6%).

*Outcome plan completion.* The majority (98.2%) of outcome plans were completed. The remaining 1.8% were in progress. This completion rate is higher than

the rate of completion identified in Chapter 7 because data collection for young people who did not complete their outcome plan was outside of the scope of BOCSAR.

#### **8.2.1.4. Prior contact variables**

For the eight prior contact variables identified, there was a statistically significant difference ( $p < .05$ ) between the observed data and that expected by chance (see Table 16). This indicates that the data presented below is likely to accurately represent the characteristics of prior contact variables in young people who participated in conferencing for YMF. The characteristics of the variables have been contextualised by existing literature.

*Age at first contact.* Most young people first came into contact with the juvenile justice system at 15 years of age (24.3%). This was followed by 14 year olds (16.1%), 16 year olds (14.2%), 13 year olds (13.3%), 17 year olds (10.1%), and 12 year olds (9.2%). This variable was normally distributed and aligns with the age-crime curve (see Chapter 2 and Chapter 7).

*Age at first conference.* Most young people who participated in a conference for the first time were 15 years old (23.9%). This was followed closely by 16 year olds (20.6%), 13 and 17 year olds (14.2% respectively), and 14 year olds (12.8%). Again, this variable was normally distributed and reflects the age-crime curve (see Chapter 2 and Chapter 7).

*Number of prior current offences.* The number of prior current offences were recorded by JJNSW at the time of the Risk Needs assessment. Only 67 young people underwent a Risk Needs assessment. Of these, 26.9% had three prior current offences, 25.4% had four prior current offences, and 16.4% had two prior current offences.



**Table 16. Contact with justice system before index contact**

Variable	Category	No. of cases <i>n</i> =	Proportion of sample %
Age at first contact*	10	10	4.6
	11	11	5.0
	12	20	9.2
	13	29	13.3
	14	35	16.1
	15	53	24.3
	16	31	14.2
	17	22	10.1
	18	7	3.2
	Total	218	100.0
Age at first conference*	10	1	.5
	11	7	3.2
	12	11	5.0
	13	31	14.2
	14	28	12.8
	15	52	23.9
	16	45	20.6
	17	31	14.2
	18	12	5.5
	Total	218	100.0
No. of prior current offences*	0	1	.5
	1	9	4.1
	2	11	5.0
	3	18	8.3
	4	17	7.8
	5	4	1.8
	6	5	2.3
	7	1	.5
	8	1	.5
	Total (missing)	67 (151)	-
No. prior court appearances*	0	184	84.4
	1	21	9.6
	2	8	3.7
	3	4	1.8
	4	1	.5
	Total	218	100.0
No. prior Children's Court appearances*	0	185	84.9
	1	20	9.2
	2	9	4.1
	3	4	1.8
	Total	218	100.0
No. prior cautions*	0	101	46.3
	1	63	28.9
	2	28	12.8
	3	22	10.1
	4	3	1.4
	5	1	.5
	Total	218	100.0
No. prior conferences*	0	188	86.2
	1	22	10.1
	2	5	2.3
	3	2	.9
	6	1	.5
		Total	218

No. prior property damage offences*	0	195	89.4
	1	19	8.7
	2	3	1.4
	3	1	.5
	Total	218	100.0

*p*-values for chi squared test of association: \* *p*<.05

Source: Juvenile Justice NSW, NSW Bureau of Crime Statistics and Research

However, once again, these findings should be considered with caution due to the large amount of missing data (69.3%).

*Number of prior court appearances.* Most (84.4%) young people did not have a prior court appearance. This finding is in accordance with the legislation, where the hierarchy of sanctions provides for increments in state intervention, from a warning, caution, conference, to court, if re-offending persists. Given participation in conferencing should occur before attendance at court, it is expected that most young people would not have been before a court prior to conferencing.

*Number of prior Children's Court appearances.* Most (84.9%) young people did not have a prior Children's Court appearance. Again, this finding is in accordance with the legislation.

*Number of prior cautions.* Most (53.7%) young people had been cautioned prior to participation in conferencing. Again, this finding is in accordance with the legislation. Given the index intervention is a conference, it is expected that most young people would have been cautioned at least once prior to participation in conferencing.

*Number of prior conferences.* Most (86.2%) young people had not participated in a conference prior to the index conference. This aligns with existing literature which suggests that conferences are generally not utilised repeatedly if re-offending persists (Moore, 2011a).

*Number of prior property damage offences.* Most (89.4%) young people had not committed a property damage offence prior to the index conference. Given property

damage offences generally meet a level of seriousness which constitutes greater intervention than a warning or caution, and that most young people had not come before a conference or a court prior to their index contact, it is expected that most of the sample would not have committed a prior property damage offence.

### 8.2.2. Descriptive analysis of recidivists

Of the 218 young people who participated in a conference for a fire-related offence between 1 July 2006 and 30 June 2016, as recorded by JJNSW and BOCSAR, 147 (67.4%) committed a detectable re-offence within the follow-up period (1 July 2006 - 30 June 2016). The remaining 71 (32.6%) young people did not commit a detectable re-offence within the follow-up period, as displayed in Table 17. Recidivism is defined as any offence committed and detected after the index conference date, within the follow-up period.

**Table 17. Free time to...**

Variable	Category	No. of cases <i>n</i> =	Proportion of sample %
Free time to...	Re-offence	147	67.4
	Death	0	0
	End of study	71	32.6
	Total	218	100.0

Source: NSW Bureau of Crime Statistics and Research

According to existing literature, a recidivism rate of 67.4% is typical for those who participate in conferencing more broadly. Payne and Weatherburn (2015) conducted an analysis of NSW BOCSAR ROD data for all young people cautioned, referred to a Youth Justice Conference, or who appeared in court, over a 10-year period from 1999. The sample consisted of 8,797 young people. Payne and Weatherburn (2015) found that 61.0% of young people who were referred to a conference were

reconvicted of an offence within 10 years of their index offence. Smith and Weatherburn (2012) conducted an analysis of BOCSAR and JJNSW data for all Youth Justice Conferences ( $n = 1,399$ ) and Children's Court finalisations ( $n = 7,591$ ) in NSW in 2007. During a comparison of conference and court re-offending data, the researchers found that 64.4% of young people within the conference group re-offended within 24 months of their index offence (Smith & Weatherburn, 2012, p.13).

The recidivism rate identified in this study is also similar to recidivism rates identified in YMF literature. Ducat et al. (2015) conducted a 2.5 – 11 year follow-up of 1,052 persons over the age of 18 years convicted of arson in Victoria between 2000 and 2009. Recidivism, measured as charges which occurred after the index offence, occurred in 55.4% of the sample. Lambie, Randell, Ioane, and Seymour (2009) conducted a 10-year follow-up of 200 young people referred to the NZ Fire Awareness and Intervention Program in 1999. Analysis of the National Intelligence Application database maintained by NZ Police revealed that recidivism occurred in 59.5% of the sample.

#### **8.2.2.1. Re-offence variables**

The descriptive statistics in Table 18 relate to the 147 young people who re-offended within the follow-up period (1 July 2006 - 30 June 2016). Of the 12 re-offence variables identified, there was a statistically significant difference ( $p < .05$ ) between the observed data and that expected by chance for nine of the variables. This indicates that the data presented below is likely to accurately represent re-offence characteristics in young people who participated in conferencing for YMF. The characteristics of all variables have been contextualised by existing literature.

**Table 18. First re-offence after index contact**

Variable	Category	No. of cases n =	Proportion of sample %
Age at first reoffence*	11	1	.7
	12	6	4.1
	13	15	10.2
	14	12	8.2
	15	22	15.0
	16	28	19.0
	17	20	13.6
	18	18	12.2
	19	10	6.8
	20	6	4.1
	21	4	2.7
	22	5	3.4
	Total	147	100.0
Jurisdiction of first re-offence*	Cannabis caution	5	3.4
	Children's Court	54	36.7
	District Court	1	.7
	Local Court	43	29.3
	Police caution	29	19.7
	Youth Justice Conference	15	10.2
	Total	147	100.0
ANZSOC classification of first re-offence*	104 Possess and/or use illicit drug	17	11.6
	111 Prohibited weapons/explosives offences	3	2.0
	112 Regulated weapons/explosives offences	2	1.4
	121 Property damage	23	15.6
	131 Disorderly conduct	10	6.8
	133 Offensive conduct	8	5.4
	141 Driver licence offences	8	5.4
	143 Regulatory driving offences	9	6.1
	156 Offences against justice procedures	2	1.4
	211 Serious assault resulting in injury	5	3.4
	212 Serious assault not resulting in injury	2	1.4
	213 Common assault	6	4.1
	291 Stalking	4	2.7
	299 Other acts intended to cause injury	1	.7
	412 Dangerous/negligent operation of vehicle	3	2.0
	611 Aggravated robbery	2	1.4
	711 Unlawful entry with intent	8	5.4
	812 Illegal use of motor vehicle	7	4.8
	821 Theft from a person	1	.7
	823 Theft from retail premises	6	4.1
	829 Theft, nec	12	8.2
	831 Receive or handle proceeds of crime	4	2.7
	911 Obtain benefit by deception	2	1.4
	991 Dishonest conversion	1	.7
999 Other fraud/deception offences	1	.7	
	Total	147	100.0
Type of first re-offence*	Drug	17	11.6
	Person	23	15.6
	Property	61	41.5
	Summary	20	13.6
	Traffic	17	11.6
	Other	9	6.1
	Total	147	100.0
Fire-specific re-offence*	Yes	2	1.4
	No	145	98.6
	Total	147	100.0

Seriousness of first re-offence*	<50	31	21.1
	51-100	45	30.6
	>101	71	48.3
	Total	147	100.0
Penalty for first re-offence*	Bond (adult)	12	8.2
	Bond (juvenile)	23	15.6
	Bond without conviction	9	6.1
	Community service order (adult)	1	.7
	Dismissed with caution (juvenile)	14	9.5
	Fine	22	15.0
	Imprisonment (adult)	1	.7
	Juvenile control order (juvenile)	4	2.7
	No conviction recorded	3	2.0
	No penalty	49	33.3
	Probation (juvenile)	7	4.8
	Suspended control order/sentence	2	1.4
	Total	147	100.0
No. of counts of first re-offence	1	128	87.1
	Total (missing)	128 (19)	-
No. of concurrent charges at first re-offence*	1	62	42.2
	2	31	21.1
	3	13	8.8
	4	7	4.8
	5	5	3.4
	6	1	.7
	8	2	1.4
	9	1	.7
	10	1	.7
	11	2	1.4
	12	2	1.4
	24	1	.7
	Total (missing)	128 (19)	-
	No. of re-offences dealt with by caution	0	128
Total (missing)		128 (19)	-
No. of re-offences dealt with by conference	0	128	87.1
	Total (missing)	128 (19)	-
No. of re-offences dealt with by court*	1	26	17.7
	2	19	12.9
	3	16	10.9
	4	8	5.4
	5	5	3.4
	6	3	2.0
	7	3	2.0
	8	4	2.7
	9	4	2.7
	>10	40	27.2
Total (missing)	128 (19)	-	

*p*-values for chi squared test of association: \* *p*<.05

Source: NSW Bureau of Crime Statistics and Research

*Age at first re-offence.* Of the 147 young people who re-offended, the majority (19.0%) were 16 years of age at their first re-offence. This was followed closely by 15 year olds (15.0%), 17 year olds (13.6%) and 18 year olds (12.2%). Very few young

people re-offended after the age of 19 years. This variable was normally distributed and aligns with the age-crime curve (see Chapter 2).

*Jurisdiction of first re-offence.* The majority (36.7%) of young people who re-offended were dealt with by a Children's Court, followed by a Local Court (29.3%). Few young people were dealt with by a caution (19.7%) or conference (10.2%). Although there are minor exceptions, these findings reflect the intent of the *Young Offenders Act 1997* (NSW) which aims to implement a hierarchy of sanctions from caution, conference, to court.

*ANZSOC classification of first re-offence.* There was a high degree of variability in the ANZSOC classifications of first re-offence. Twenty-three (15.6%) young people committed a property damage re-offence, 11.6% committed a possess and/or use illegal drugs offence, 8.2% a theft, and 6.8% a disorderly conduct offence. These findings are supported by literature which states that young people who engage in YMF are usually versatile offenders (Ducat et al., 2015; Lambie et al., 2009).

*Type of first re-offence.* The majority (41.5%) of young people who recidivated committed a property re-offence after participation in conferencing. A further 15.6% committed an offence against the person, 13.6% committed a summary offence, and 11.6% committed a drug offence or traffic offence, respectively. These results reflect existing literature. Agnew-Pauley and Holmes (2015) found that 87.0% of juveniles who committed property damage were reconvicted within 10 years. However, only 55.0% were reconvicted for property damage. The remainder were reconvicted of a variety of other offences (Agnew-Pauley & Holmes, 2015).

*Fire-specific re-offence.* The clear majority (98.6%) of young people did not commit a fire-related re-offence after participation in conferencing. Although conferencing for YMF may have reduced the likelihood of fire-related recidivism, this

is not necessarily the case. In fact, existing literature suggests that fire-specific recidivism is low compared to general recidivism (Ducat et al., 2015; Lambie et al., 2009). Few fire-specific re-offences may thus reflect the trends identified in existing literature.

*Seriousness of first-re-offence.* BOCSAR classified the seriousness of offences using the Median Severity Ranking (MSR) scale. The lower the value, the more serious the offence. The majority (48.3%) of young people committed a re-offence classified as least serious (>101). Only 21.1% committed a re-offence classified as most serious.

*Penalty for first re-offence.* Of those young people who recidivated, 33.3% received no penalty, 15.6% received a bond (juvenile), and 15.0% received a fine.

*Number of counts of first re-offence.* Of the 128 records that contained counts of first re-offence, all contained one count of re-offence.

*Number of concurrent charges at re-offence.* Most (42.2%) young people had one charge at first re-offence, 21.1% had two charges, while 8.8% had three charges at first re-offence.

*Number of re-offences dealt with by a caution.* Of the 128 records containing data on re-offences dealt with by way of caution, none included a re-offence dealt with by way of caution.

*Number of re-offences dealt with by a conference.* Of the 128 records containing data on re-offences dealt with by conference, none included a re-offence dealt with by conference.

*Number of re-offences dealt with by court.* Twenty-six (17.7%) young people had one re-offence dealt with by court. Nineteen (12.9%) had two re-offences dealt with by court while 16 (10.9%) had three re-offences dealt with by court.



To determine whether any of these variables differed by firefighter involvement, a comparative analysis was conducted (see section 8.4).

### **8.3. Survival Analysis**

Survival analysis refers to the study of time-to-event (Vogt, 2005). In this context, survival analysis refers to the study of how long young people who participated in conferencing for YMF survived before re-offending. Survival analysis was conducted by following cohorts within the sample and within each group: young people who participated in conferencing with a firefighter, and young people who participated without a firefighter. The first cohort, 2006/07 participants, was followed for 10 years. The second cohort, 2007/08 participants, was followed for nine years, and so forth, until the 2015/16 cohort was followed for only one year. Rates of recidivism were calculated by dividing the number of re-offenders by the total number of participants in each cohort per year post-conferencing. This analysis provides insight into the number of young people who re-offended after participation in conferencing for YMF, while considering differences in follow-up periods.

#### **8.3.1. Survival analysis for sample**

The findings in Table 19 indicate that 85.2% of young people in cohort 1 (those young people who participated in a conference for YMF between 1 July 2006 and 30 June 2007) re-offended within the follow-up period (10 years). Nineteen (79.2%) young people in cohort 2 (those young people who participated in a conference for YMF between 1 July 2007 and 30 June 2008) re-offended within the follow-up period (9 years), and so forth.

**Table 19. Recidivism by cohort**

<b>Cohort</b>	<b>No. of cases in cohort</b>	<b>Conference date</b>	<b>Follow-up period (years)</b>	<b>Re-offended <i>n</i> =</b>	<b>Did not re-offend <i>n</i> =</b>	<b>Recidivism %</b>
1	27	1 July 2006 – 30 June 2007	10	23	4	85.2
2	24	1 July 2007 – 30 June 2008	9	19	5	79.2
3	26	1 July 2008 – 30 June 2009	8	19	7	73.1
4	28	1 July 2009 – 30 June 2010	7	21	7	75.0
5	15	1 July 2010 – 30 June 2011	6	13	2	86.7
6	18	1 July 2011 – 30 June 2012	5	9	9	50.0
7	37	1 July 2012 – 30 June 2013	4	17	20	45.9
8	25	1 July 2013 – 30 June 2014	3	15	10	60.0
9	14	1 July 2014 – 30 June 2015	2	8	6	57.1
10	3	1 July 2015 – 30 June 2016	1	2	1	66.7
<b>Total</b>	<b>217 (1)</b>			<b>146 (1)</b>	<b>71</b>	

Source: NSW Bureau of Crime Statistics and Research

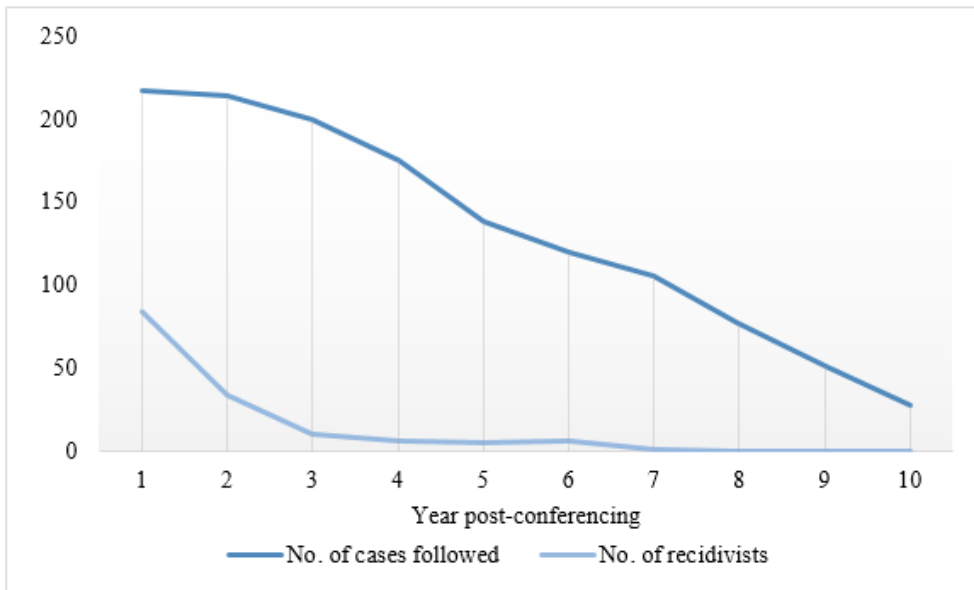
Although these findings provide insight into how many young people recidivated within each cohort, each cohort has a different follow-up period. The results are therefore contingent upon the length of time of the follow-up period. To mitigate this limitation, each cohort is broken down into years post-conferencing (see Table 20).

**Table 20. Recidivism by year post-conferencing**

<b>Year post-conference</b>	<b>No. of cases followed <i>N</i> =</b>	<b>No. of recidivists <i>n</i> =</b>	<b>Recidivism (<i>n/N</i>) %</b>	<b>Recidivism rate (per sample)</b>
1	217	84	38.7	.387
2	214	34	15.9	.159
3	200	10	5.0	.050
4	175	6	3.4	.034
5	138	5	3.6	.036
6	120	6	5.0	.050
7	105	1	.9	.009
8	77	0	0	0
9	51	0	0	0
10	27	0	0	0

The above data has been graphically displayed below (Figure 6).

**Figure 6. Survival analysis**



Survival analysis revealed that 38.7% of young people who participated in a conference for a fire-related offence between 1 July 2006 and 30 June 2016 re-offended within 12 months. A further 15.9% re-offended within the second-year post-conferencing, while only 5.0% re-offended within the third-year post-conferencing. None of the young people within the sample re-offended within the eighth, ninth, or tenth year, post-conferencing. When discussed in terms of rates, survival analysis revealed that the rate of recidivism was highest in the first 12 months post-conferencing. The recidivism rate of .387 in the first-year was more than double the rate of recidivism in the second-year post-conferencing, while the recidivism rate in the second-year post-conferencing (.159) was triple the rate of recidivism in the third-year post-conferencing (.050). The rate of recidivism remained relatively stable for the fourth, fifth, sixth and seventh years post-conferencing, and was negligible thereafter.

These results reflect those identified within the literature. Holmes (2012) conducted an analysis of re-offending data maintained by BOCSAR for all adults and juveniles who committed an offence in 1994. A 15-year follow-up revealed that 79.0%

of 10-17 year olds were reconvicted within 15 years. Most reconvictions occurred within the first 12 months (40.0%), with another 15.0% occurring with 24 months, and a further 7.0% occurring within 36 months (Holmes, 2012, p. 2). Agnew-Pauley and Holmes (2015) updated Holmes' 2012 analysis by following all adults and juveniles who committed an offence in NSW in 2004 for 10 years. The researchers found that 79.0% of juveniles were reconvicted within 10 years. Again, most reconvictions occurred within the first 12 months (41.0%), with a further 16.0% reconvicted after 24 months, and a further 8.0% reconvicted after 36 months (Agnew-Pauley & Holmes, 2015, p. 2).

### 8.3.2. Survival analysis by firefighter involvement

The following analysis was conducted on the dataset after it was split by firefighter involvement (see Table 21).

**Table 21. Recidivism by cohort by firefighter**

Cohort	No. of cases in cohort	No. of recidivists in cohort	Firefighter		Re-offended <i>n</i> =	Recidivism ( <i>n</i> / <i>N</i> )
			Present	<i>N</i> =		
1	11	9	Yes	0	0	0
			No	11	9	81.8
2	7	4	Yes	0	0	0
			No	7	4	57.1
3	8	6	Yes	0	0	0
			No	8	6	75.0
4	4	2	Yes	0	0	0
			No	4	2	50.0
5	7	5	Yes	0	0	0
			No	7	5	71.4
6	3	0	Yes	1	0	0
			No	2	2	100.0
7	22	10	Yes	17	6	35.3
			No	5	4	80.0
8	19	11	Yes	16	10	62.5
			No	3	1	33.3
9	9	5	Yes	8	5	62.5
			No	1	1	100.0
10	3	2	Yes	3	2	66.7
			No	0	0	0
<b>Total</b>	<b>93</b>	<b>54</b>				

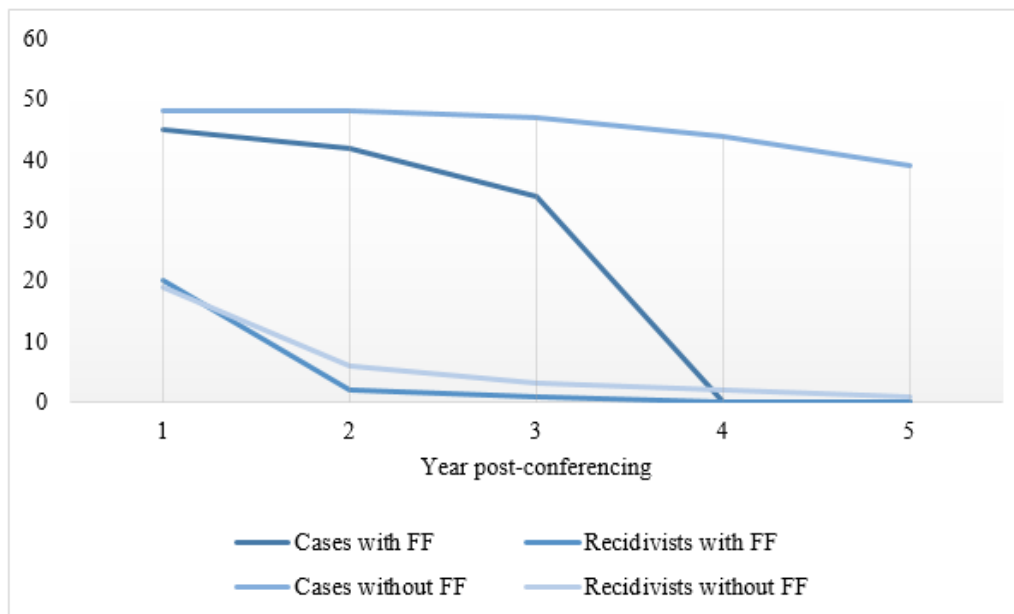
Source: Juvenile Justice NSW; NSW Bureau of Crime Statistics and Research

Of the 93 records which contained data on young people and firefighter involvement, 54 (58.1%) contained a record of re-offence within the follow-up period. Firefighters were explicitly included in 45 conference records, and explicitly excluded in 48 conference records. To aid comprehension, this data has been summarised (Table 22) and graphically displayed (Figure 7).

**Table 22. Recidivism by year post-conferencing by firefighter**

Firefighter present	Year post-conference	No. of cases followed N =	No. of recidivists n =	Recidivism rate (n/N) %
Yes	1	45	20	44.4
	2	42	2	4.8
	3	34	1	2.9
No	1	48	19	39.6
	2	48	6	12.5
	3	47	3	6.4
	4	44	2	4.5
	5	39	1	2.6

**Figure 7. Survival analysis by firefighter**



Survival analysis by firefighter indicates that 44.4% of young people who participated in a conference with a firefighter re-offended within the first-year post-conferencing. Only 4.8% and 2.9% of young people who participated in a conference with a firefighter re-offended within the second and third-year post-conferencing, respectively. Of those young people who participated in a conference without a firefighter, 39.6% re-offended within the first-year post-conferencing, while 12.5% re-offended within the second-year post-conferencing. Lower rates of re-offending occurred within the third (6.4%), fourth (4.5%), and fifth (2.6%) years post-conferencing. Measures of association and analysis of variance have been performed below to ascertain whether there was a statistically significant relationship between firefighter involvement and recidivism (see section 8.4).

#### **8.4. Comparative Analysis**

Comparative analysis was performed to determine if there were any statistically significant relationships between the categorical or continuous recidivism variables by firefighter involvement. Only data which explicitly included ( $n = 45$ ) or excluded ( $n = 48$ ) firefighter involvement was included in the analysis. The sample included 93 cases. Except for age at first contact and age at re-offence, all variables were not normally distributed and remained so after log-normalisation.

##### **8.4.1. Measures of Association**

Chi square  $r \times c$  tests for independence were performed to determine if there were any statistically significant associations between firefighter involvement and each of the categorical variables (see Table 23). As outlined in Chapter 7, the underlying assumptions were met.

**Table 23. Chi square  $r \times c$  tests for independence (recidivism)**

$r \times c$	Cross tabulation variables		$df$	$\chi^2$	Asymp. Sig. (2-sided)	Cramer's $V$
2 x 2	Firefighter	Fire-specific outcome	1	8.993**	.003	.311
2 x 2	Firefighter	Gender	1	.205	.651	.047
2 x 3	Firefighter	Index offence type	2	1.281	.527	.117
2 x 3	Firefighter	Indigeneity	2	.100	.951	.033
2 x 2	Firefighter	Outcome completion	1	.281	.596	.055
2 x 4	Firefighter	Re-offence type	3	7.815*	.050	.290
2 x 2	Firefighter	Recidivism	1	1.731	.188	.136
2 x 2	Firefighter	Referral source	1	2.738	.098	.172
2 x 4	Firefighter	Risk needs rank	3	.370	.946	.063
2 x 2	Firefighter	Task – Apology	1	3.676	.055	.199
2 x 2	Firefighter	Task – Behavioural	1	3.262	.071	.187
2 x 2	Firefighter	Task – Development	1	4.328*	.037	.216
2 x 2	Firefighter	Task – Work	1	.273	.602	.054
2 x 2	Firefighter	Task – Study/school	1	7.714**	.005	.288
2 x 2	Firefighter	Task – Financial/gift	1	.722	.395	.088
2 x 2	Firefighter	Fire task - Apology	1	.316	.574	.058
2 x 2	Firefighter	Fire task – Clean-up	1	.948	.330	.101
2 x 2	Firefighter	Fire task – Fire video	1	27.991***	.000	.549
2 x 2	Firefighter	Fire task – Fire activity	1	2.272	.132	.156
2 x 2	Firefighter	Fire task – Fire program	1	2.906	.088	.177
2 x 2	Firefighter	Fire task – Fire talk	1	.478	.489	.072
2 x 2	Firefighter	Fire task – Work FB	1	2.584	.108	.167
2 x 2	Firefighter	Fire task – Inappropriate	1	1.916	.166	.144
2 x 3	Firefighter	Principle offence type	2	1.477	.478	.130

N = 93 for all variables

Statistical significance: \*\*\* $p < .001$ , \*\* $p < .005$ , \* $p < .05$

Chi square  $r \times c$  tests for independence revealed statistically significant associations between firefighter involvement and five categorical variables. Descriptive statistics via cross tabulations provide greater insight into these statistically significant findings (see Table 24).

*Fire safety video.* A highly statistically significant ( $p < .001$ ) association was identified between firefighter involvement and the viewing of a fire safety video as a component of an outcome plan ( $\chi^2 (1, N = 93) = 27.99, p < .001$ ). Young people were more likely to view a fire safety video when they participated in a conference with a firefighter (70.2%).

**Table 24. Cross tabulations for firefighter associations (recidivism)**

Category	Sub-category	N =	Firefighter	n =	n/N (%)
Fire safety video	Viewed	57	Yes	40	70.2
			No	17	29.8
	Not viewed	36	Yes	5	13.9
			No	31	86.1
Outcome plan	Fire-specific	75	Yes	42	56.0
			No	33	44.0
	Not fire-specific	18	Yes	3	16.7
			No	15	83.3
Study/school	Undertaken	11	Yes	1	9.1
			No	10	90.9
	Not undertaken	82	Yes	44	53.7
			No	38	46.3
Personal development	Undertaken	24	Yes	16	66.7
			No	8	33.3
	Not undertaken	69	Yes	29	42.0
			No	40	58.0
Re-offence type	Person	10	Yes	1	10.0
			No	9	90.0
	Property	27	Yes	15	55.6
			No	12	44.4
	Summary	17	Yes	7	41.2
			No	10	58.8
	None	39	Yes	22	56.4
			No	17	43.6

*Outcome plan.* A statistically significant ( $p < .01$ ) association was observed between firefighter involvement and the fire-specificity of the outcome plan ( $\chi^2 (1, N = 93) = 8.99, p = .003$ ). Outcome plans that were fire-specific were more likely to arise from a conference that included a firefighter (56.0%). Outcome plans that contained nil fire-specific tasks were more likely to arise from a conference that did not include a firefighter (83.3%).

*Study/school.* A statistically significant ( $p < .01$ ) association was observed between firefighter involvement and the undertaking of a study/school-related outcome plan task ( $\chi^2 (1, N = 93) = 7.71, p = .005$ ). Young people were more likely to undertake a study/school-related task as a component of their outcome plan when they participated in a conference without a firefighter (90.9%).



*Personal development.* A borderline statistically significant ( $p < .05$ ) association was observed between firefighter involvement and the undertaking of a personal development task ( $\chi^2 (1, N = 93) = 4.33, p = .037$ ). Personal development tasks included volunteering with the fire brigade, conducting a home fire safety audit, completing an assignment on fire safety, and/or other fire-related tasks. Young people were more likely to undertake one of these tasks when they participated in a conference with a firefighter (66.7%).

*Re-offence type.* Finally, a borderline statistically significant ( $p < .05$ ) association was identified between firefighter involvement and re-offence type ( $\chi^2 (3, N = 93) = 7.82, p = .05$ ). When young people participated in a conference with a firefighter, they were more likely to commit a property related re-offence (55.6%) or no re-offence (56.4%). When young people participated in a conference without a firefighter, they were more likely to commit a re-offence against a person (90.0%) or a summary re-offence (58.8%).

#### **8.4.3.2. Analysis of Variance**

Mann-Whitney U (independent design) tests were conducted to identify any statistically significant differences in continuous recidivism variables by firefighter involvement. As identified in Chapter 7, the assumptions underlying Mann-Whitney U were met.

Mann-Whitney U calculations revealed statistically significant differences in three continuous variables by firefighter involvement (see Table 25).

**Table 25. Mann-Whitney U test statistics (recidivism)**

Condition	N	U	Z	Asymp. Sig.
Age at first contact	93	1047.000	-.257	.798
Age at re-offence	54	302.000	-.964	.335
Attitude orientation	33	123.500	-.471	.638
ARIA mean	92	684.000	-2.951	.003
Days to re-offence	93	868.500	-1.626	.104
Education/Employment	33	116.000	-.738	.460
Family living circumstance	33	134.000	-.074	.460
Leisure recreation	33	121.500	-.543	.587
Peer relations	33	124.000	-.458	.647
Personality behaviour	33	124.500	-.420	.674
Risk needs score	33	123.500	-.451	.652
SEIFA	92	855.000	-1.578	.115
Seriousness of index offence	93	943.000	-1.352	.176
Seriousness of re-offence	54	282.500	-1.298	.194
Substance abuse	33	122.500	-.509	.611
Years to re-offence	54	260.500	-2.133*	.033
# outcome plan tasks	93	790.500	-2.325*	.020
# fire-specific outcome tasks	93	882.000	-1.644	.100
# prior current offences	33	92.000	-1.616	.106
# concurrent charges at index	93	973.500	-.876	.381
# property damage at index	93	1038.000	-.375	.707
# prior property damage	93	1067.500	-.172	.864
# prior court appearances	93	997.000	-.927	.354
# prior juvenile court	93	995.000	-.949	.343
# prior cautions	93	1061.500	-.151	.880
# prior conferences	93	1041.000	-.482	.630
# counts at re-offence	50	300.000	.000	1.000
# concurrent re-offences	50	170.000	-2.724**	.006
# re-offences conferred	50	285.500	.000	1.000
# re-offences to court	50	285.500	-.291	.771

Grouping variable: Firefighter

Statistical significance: \*\* p<.01, \* p<.05

The nature of these differences is elucidated below (Table 26).

**Table 26. Descriptive statistics of significant Mann-Whitney U tests (recidivism)**

Condition	Firefighter	Median	Minimum	Maximum	Range
# concurrent re-offences	Absent	1	1	8	7
	Present	2.5	1	24	23
# outcome plan tasks	Absent	3	1	7	6
	Present	3	2	8	6
Years to re-offence	Absent	1	1	6	5
	Present	1	1	3	2

*Number of concurrent re-offences.* A statistically significant ( $p<.01$ ) difference was observed in number of concurrent re-offences by firefighter involvement ( $U =$

170.00,  $Z = -2.72$ ,  $p = .006$ ,  $r = .39$ ). Descriptive statistics indicated that the number and range of concurrent re-offences was greater when a firefighter was present ( $Mdn = 2.5$ ,  $R = 23$ ) than when a firefighter was absent ( $Mdn = 1$ ,  $R = 7$ ).

*Number of outcome plan tasks.* A borderline statistically significant ( $p < .05$ ) difference was identified in number of outcome plan tasks by firefighter involvement ( $U = 790.50$ ,  $Z = -2.33$ ,  $p = .02$ ,  $r = .24$ ). Further analysis revealed that the number and range of outcome plan tasks were the same ( $Mdn = 3$ ,  $R = 6$ ), yet the minimum and maximum numbers were higher when a firefighter was present (min = 2, max = 8) than when a firefighter was absent (min = 1, max = 7).

*Years to re-offence.* Finally, a borderline statistically significant ( $p < .05$ ) difference was observed in years to re-offence by firefighter involvement ( $U = 260.50$ ,  $Z = -2.13$ ,  $p = .033$ ,  $r = .29$ ). The number of years to re-offence was the same ( $Mdn = 1$ ), yet the range was lower when a firefighter was present ( $R = 2$ ) than when a firefighter was absent ( $R = 5$ ).

### **8.5. Cox proportional hazards regression**

Cox proportional hazards regression is a survival model which considers fixed and time-dependent covariates (predictors) to determine the likelihood of an event (Mills, 2011). It is a robust semi-parametric model which does not require a probability distribution for calculation yet enables an evaluation of the effect of multiple variables on the likelihood of an event (Mills, 2011). The cox regression model produces a hazard or risk ratio (Mills, 2011). An estimated hazard rate ratio greater than one indicates that the covariate is associated with an increased risk of having the event of interest. A ratio of less than one indicates that the covariate is associated with a decreased risk of having the event of interest. A ratio of one indicates no association between the covariate and

the event of interest. Cox proportional hazards regression was deemed suitable given the data was not normally distributed and remained so after log normalisation.

To test whether firefighter involvement, the provision of fire safety education, and the inclusion of fire-specific outcome plan tasks would decrease the risk of recidivism, cox proportional hazards regression was calculated. The variables firefighter involvement (1 = yes, 0 = no), fire-specific outcome plan (1 = yes, 0 = no), number of fire-specific outcome plan tasks, viewing of fire safety video (1 = yes, 0 = no), and outcome plan completed (1 = yes, 0 = no) were included in the cox equation, with free time to re-offence (days) as the time variable and recidivism (1 = yes, 0 = no) as the status variable.

Table 27 reveals the likelihood of recidivism without the contribution of predictor variables. This is known as the null model.

**Table 27. Omnibus Tests of Model Coefficients without Predictor Variables**

<b>-2 Log Likelihood</b>
438.344

Table 28 indicates that the inclusion of the variables firefighter involvement, fire-specific outcome plan, number of fire-specific outcome plan tasks, viewing of fire safety video, and outcome plan completion changed the -2 log likelihood from 438.34 to 428.12. The difference of 10.22 with 5 degrees of freedom tended towards significance ( $p = .069$ ) but did not reach significance ( $p < .05$ ).

**Table 28. Omnibus Tests of Model Coefficients for equation one**

<b>-2 Log Likelihood</b>	<b>Overall (score)</b>			<b>Change from previous step</b>			<b>Change from previous block</b>		
	<b>Chi-square</b>	<b>df</b>	<b>Sig.</b>	<b>Chi-square</b>	<b>df</b>	<b>Sig.</b>	<b>Chi-square</b>	<b>df</b>	<b>Sig.</b>
428.120	10.288	5	.067	10.224	5	.069	10.224	5	.069

There were only two statistically significant variables in the equation, fire-specific outcome plan and number of fire-specific outcome plan tasks (see Table 29). This means that firefighter involvement, the viewing of a fire safety video, and outcome plan completion were not significant predictors of risk of recidivism within the model.

**Table 29. Variables in equation one**

Variable	Exp(B)	df	Sig.	95.0% CI for Exp(B)	
				Lower	Upper
Firefighter	1.032	1	.925	.538	1.977
Fire-specific outcome plan*	.203	1	.005	.067	.613
Number of fire-specific tasks*	2.028	1	.013	1.164	3.532
Viewing of fire safety video	1.243	1	.639	.501	3.082
Outcome plan completed	2.009	1	.501	.263	15.322

Statistical significance: \*  $p < .05$

For equation two, the inclusion of the variables fire-specific outcome plan and number of fire-specific outcome plan tasks changed the -2 log likelihood from 438.34 to 429.16. The difference of 9.19 for 2 degrees of freedom was statistically significant ( $p = .01$ ), as displayed in Table 30.

**Table 30. Omnibus Tests of Model Coefficients for equation two**

Overall (score)				Change from previous step			Change from previous block		
-2 Log Likelihood	Chi-square	df	Sig.	Chi-square	df	Sig.	Chi-square	df	Sig.
429.158	9.622	2	.008	9.186	2	.010	9.186	2	.010

The following two variables were significant predictors of risk of recidivism within the model, as shown in Table 31.

**Table 31. Variables in equation two**

Variable	Exp(B)	df	Sig.	95.0% CI for Exp(B)	
				Lower	Upper
Fire-specific outcome plan*	.225	1	.004	.081	.627
Number of fire-specific tasks*	2.167	1	.003	1.293	3.633

Statistical significance: \*  $p < .01$

*Fire-specific outcome plan.* This variable was a significant predictor of risk of recidivism ( $\beta (1) = .23, p = .004$ ). The  $\beta$  value is less than one, meaning the covariate (fire-specific outcome plan) is associated with a decreased risk of recidivism. The inclusion of a fire-specific outcome plan reduced the risk of recidivism.

*Number of fire-specific outcome plan tasks.* This variable was a significant predictor of risk of recidivism ( $\beta (1) = 2.17, p = .003$ ). The  $\beta$  value is greater than one, meaning the covariate (number of fire-specific tasks) is associated with an increased risk of recidivism. The higher the number of fire-specific outcome plan tasks, the higher the risk of recidivism.

## **8.6. Conclusion**

Univariate and survival analyses of categorical and continuous variables for young people who participated in a conference for YMF between 1 July 2006 and 30 June 2016, and who subsequently had their details recorded by BOCSAR, revealed strong parallels with the findings detailed in Chapter 7 and existing literature. This consensus supports the reliability and validity of the findings in this study. It also indicates that young people within the sample were typical of young offenders, and that the characteristics of the conferences within the sample were typical of conferences more broadly.

Despite these similarities, bivariate analysis revealed that firefighter involvement had a statistically significant relationship with the processes and outcomes of conferencing. Measures of association by firefighter involvement revealed that, when a firefighter was present, young people were more likely to receive a fire-specific outcome plan, view a fire safety video and/or undertake a personal development task as a component of this outcome plan, and commit a re-offence against property or not at

all. When a firefighter was absent, young people were more likely to undertake a study/school option as a component of their outcome plan, and commit a re-offence against a person or a summary offence. Analysis of variance indicated that when a firefighter was present, young people were more likely to be charged with a higher number of concurrent re-offences, engaged in more outcome plan tasks, and committed their re-offence within a shorter range of years, than when a firefighter was absent. Covariate analysis confirmed the influence of fire-specific variables on conferencing outcomes. Cox proportional hazards regression revealed that fire-specific outcome plans and number of fire-specific outcome plan tasks were predictors of risk of recidivism. Further analysis indicated that undertaking a fire-specific outcome plan reduced the risk of recidivism, but that undertaking multiple fire-specific outcome plan tasks increased the risk of recidivism. The inclusion of one fire-specific outcome plan task (but not any task in particular) may therefore be optimal for reducing risk of recidivism. Although firefighter involvement was not a statistically significant covariate of risk of recidivism, firefighter involvement was statistically associated with the inclusion of fire-specific outcome plan tasks. These findings are discussed further in Chapter 10.

## Chapter 9: Exploratory Results

### 9.1 Introduction

The exploratory component of the study gathered data from semi-structured telephone interviews conducted with program practitioners between 1 April and 30 September 2016. To begin, the participant group will be described (section 9.2). This will be followed by an in-depth analysis of the eight major tensions identified, as interpreted by the researcher: role fluidity (section 9.3); firefighter contribution (section 9.4); type of firefighter (section 9.5); preparation of firefighters (section 9.6); the punishment debate (section 9.7); firefighters in uniform (section 9.8); McDonaldisation (section 9.9); and manifestation of misuse of fire/perceptions of effectiveness (section 9.10). The interrelation of these tensions, and their implications for restorative justice, fire prevention, and CC-DRR, will be discussed in the conclusion (section 9.11).

### 9.2 Participants

**Table 32. Participants**

<b>Participant Group</b>	<b>Sample <i>n</i> =</b>	<b>Experience in years <i>Mean (range)</i></b>	<b>No. conferences for YMF attended <i>Mean (range)</i></b>
Program Developer	1	25 (25)	100 (100)
Conference Convenor	4	8.5 (4 – 18)	2.5 (1 – 4)
Firefighter			
Program Coordinator	3	27.3 (25 – 32)	96.7 (40 – 150)
Local	3	26.2 (25 – 27.5)	1 (1)

The sample included 11 participants: one program developer, a non-operational firefighter employed by FRNSW to develop the MoU and implement firefighter involvement in conferencing; four conference convenors who had convened conferences with firefighter involvement; three program coordinators, non-operational firefighters employed by FRNSW's Community Safety Directorate to administer



firefighter involvement in conferencing; and three local firefighters, operational firefighters who had been recruited to participate in conferencing after they had attended a fire caused by a young person. The perceptions and opinions of the program developer, program coordinators, and conference convenors were drawn from many years' experience and numerous experiences with conferencing. The perceptions and opinions of local firefighters were drawn from many years' experience with the fire service, but only singular experiences with conferencing. The qualitative data presented herein should thus be considered within the context of participants' experiences (see Table 32).

### **9.3. Role fluidity**

Program practitioners expressed different perspectives when asked to define the capacity in which firefighters attended conferencing. The program developer, all program coordinators, and all local firefighters, defined firefighters as agency representatives. However, three of these participants understood this role within the context of a victim's representative, while four understood this role within the context of a stakeholder. Two conference convenors defined firefighters as respected members of the community, one convenor defined firefighters as victims' representatives, while the fourth defined firefighters as both respected community members and victims' representatives.

These findings are an important consideration given program practitioners held certain expectations of firefighters based on the capacity in which they defined their attendance. Those participants who defined firefighters as agency representatives attending in the role of victims' representatives expected firefighters to give personal accounts of harm caused. The program developer stated, "it was our role to attend as a

victim. Each attendee, each victim, goes along, simply to explain how you were affected by it [the offence]”. The convenor stated that by defining firefighters as a victim’s representative, the firefighter can portray a “more powerful message in terms of how they actually truly suffered”. The local firefighter stated “...it’s because basically he had lit some fires and FRNSW turned up so we were there to say how this impacted on our organisation.”

Those participants who defined firefighters as agency representatives attending in the role of a stakeholder believed the purpose of firefighter attendance was pedagogical. One local firefighter who defined his role as “a representative of FRNSW. Just asked to attend. I was there as a stakeholder”, defined his purpose as, “to inform, especially looking at that age group, the dangers of fire”. Program coordinators, who all defined themselves as stakeholders, portrayed their role as “education”, the delivery of “general fire safety”, “not just for the offender but for the family and everybody present at the conference”. One coordinator stated, “I represented FRNSW in the capacity of fire safety for the juvenile firesetter.”

Two conference convenors defined firefighters as respected community members. These participants expected firefighters to have an educative function, to “provide expert opinion which could not be provided by us, or by the police, or by the victims”. One convenor stated that firefighters have the capacity to “explain in a lot more detail about the choices that people should be making and the consequences of these actions in these sort of situations.” One convenor also stressed the importance of attaining communitarianism within conferencing, and referred to the role of the firefighter as a respected member of the community who had the capacity to bring the wider community into the conference.

One conference convenor defined firefighters as both respected community members and victims' representatives. This participant expected firefighters to provide a personal account of harm caused and to represent the community in the conference. This convenor maintained an expectation that firefighters provide "a personal experience or perspective of when they turn up and are dealing with a fire" alongside "bringing it home that they were part of the community, putting it into a wider framework if you like."

The capacity in which program practitioners defined firefighter attendance indicates that the role of the firefighter is defined by stakeholder perception rather than role determination. Differences in stakeholder perceptions suggest some confusion as to the role that firefighters play and the contribution they are expected to make to the conferencing process. However, such differences may also indicate the utilisation of role fluidity. The importance of role fluidity became apparent when participants discussed the capacity in which firefighters should attend conferences. Two convenors stated that they would appreciate the power of discretion to bring into the conference a firefighter in whatever capacity was going to best meet the needs of the conference on a case-by-case basis. Another convenor stated that firefighters could attend conferencing as both a victim's representative and a member of the community. This participant stated that firefighters should "wear many hats rather than just a firefighter hat". The fourth convenor preferred the firefighter to bring both a professional and personal side to the conference. Such perceptions indicate a preference amongst convenors for fluidity in the way in which firefighter attendance is defined. This role fluidity aligns with the principles of restorative theory which do not seek to strictly define the roles of stakeholders of an offence due to the interchangeability of participant roles (Prichard, 2004).

The importance of role fluidity became further apparent when analysing the significance of victim presence in restorative justice encounters. Existing literature indicates that victim presence is central to restorativeness and reintegration (Bolitho, 2005; Braithwaite, 1992a; Sherman & Strang, 2007). The participation of a firefighter in the role of a corporate/victim/victim's representative may compensate for the absence of a personal victim, which may in turn, improve the likelihood the conferencing process will promote restorativeness and reintegrative shaming. This may be attained even when firefighters do not experience harm caused by an offence. As one firefighter stated,

...even though it accounts for us, we don't feel affected in any way, we can give the impression to the young person that they've done something wrong. That they are impacting on other people. I think we have a real role to play even though, in reality, it makes no great difference to us, we go to calls [for fires] all the time.

Regardless of whether a firefighter attended conferencing as a victim's representative, all firefighters advised participants on relevant matters through the provision of fire safety education. Here, firefighters played an advisory role which aligned with that of a respected community member. One convenor stated that firefighters,

...certainly do bring a clear perspective on what the young person is playing with as far as arson is concerned. Talking about the speed at which a fire can grow. From a smoulder to something which is close to getting hard to control.

The importance of employing firefighters as subject matter experts who have the capacity to deliver fire safety education was discussed by all participants. In fact, all participants referred to the utilisation of firefighters to deliver fire safety education regardless of the capacity in which they defined their attendance. For example, eight program practitioners defined firefighters as victims' representatives or stakeholders yet, these participants also referred to firefighters as the means through which fire safety education was delivered and through which young people became aware of the actual and potential consequences of YMF. Such findings indicate that firefighters fulfilled the role of a respected community member whose purpose was to advise participants on relevant matters even though this role was not explicitly recognised. These findings suggest that role fluidity is already utilised by program practitioners because stakeholders defined firefighters in whatever capacity best met the needs of each conference whilst maintaining the core function of firefighters, which was the provision of fire safety education<sup>5</sup>.

#### **9.4. Firefighter contribution**

Although participants differed in the capacity in which they defined firefighters, and their associated expectations of firefighters, all participants referred to firefighters as the means through which fire safety education was delivered. Differences in the nature and extent of firefighter participation emerged when comparing the fire safety education delivered by program coordinators and local firefighters.

Program coordinators held a broad view of fire safety. They delivered general fire safety information which was tailored towards the young person's offence based on

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<sup>5</sup> Due to ethical and time constraints, this study was unable to gather the perceptions and experiences of young people. As stakeholders of conferencing, the way young people perceive firefighters and their role within conferencing is an important consideration and should be the focus of future research.

evidence gathered. Program coordinators utilised fire and/or police reports, interviews with first arriving firefighters, and briefs provided by conference convenors. As one program coordinator described,

The Area Manager from JJ [Juvenile Justice] would generally give me a brief... I just liked that little bit more information because I would structure my session, my part of the conference, a little differently. Because I used to try and do my stuff in the context of the offence, the fire-related offence, rather than just... a lot of it's generalised, but I'd try and be a little bit more specific.

Another program coordinator described the fire safety messages delivered as,

...general fire safety, but I would, knowing some of the offenders, knowing some of their history, I would think some of them as a little selfish so I would look at the implications to them, and what it might mean to them, the negative implications. Not scaring them, but saying this is what might happen to you, these are things that you might lose. And then look at what it might mean to the family and community.

Program coordinators stated that the provision of fire safety education to all participants was important because young people's misuse of fire was often attributed to "their parent's behaviour and the opportunities provided to them by their parents." The purpose of firefighter involvement was therefore to communicate to all involved the consequences of misuse of fire. As one coordinator stated,

I think for the young person, the offender, and all present at the conference, to get a full understanding of the damage and the effect that fire can have on the environment, on people, on whatever the nature of the fire might have been.

Program coordinators believed that conferencing presented an opportunity to deliver general fire safety education to at-risk groups. As one program coordinator described,

It's an opportunity to engage with the young person and their family who you normally wouldn't be engaging with. Thinking that, if they are lighting fires you could potentially lose that family in a fire. I think that is the focus. Some would argue, are we really making a difference? If that's the least we achieve out of it, we've got this captive audience we wouldn't normally engage with, that's fine by me.

The objective of program coordinators appeared to be the delivery of fire safety education to instigate behavioural change in, and enhance the safety of, all participants. From a criminal justice perspective, this approach is forward-looking (Cunneen & Hoyle, 2010). It aims to improve fire knowledge and fire safety skills in conference participants to change fire-related cognitions and behaviours to reduce misuse of fire occurring in the future.

Local firefighters held a narrower view of the purposes of fire safety education. These participants attended the incident caused by the young person and were thus able to inform the young person about the actual consequences associated with their misuse of fire. Although local firefighters only explained their function in relation to educating the young person, they were very specific in the information they provided. Local

firefighters informed young people, step-by-step, the risks associated with responding to, and suppressing, the fire caused by the young person. As one firefighter described,

... it was just basically impact and results of responding to the incident. So, in the first part, it was basically explaining the costs of the service having to respond to it and perhaps missing out on something else if something else had happened. So just explaining to the perpetrator what the impact of the fire brigade responding is.

Another local firefighter stated,

...I knew what the young fella had done and how it resulted in our resources being used. We had to call resources in from other towns, so we had to strategically move our resources around and in regional areas they are scarce. In country towns we are kilometres apart, we just don't have the resources like you do in the city. One of these fires threatened a residential property... If someone was to get hurt, we'd witness that and that's something we'd have to cope with, which could have been avoided... Then it's also responding under lights and sirens, the stress of that.

The fire safety messages delivered by local firefighters were thus drawn from the personal experiences of the firefighter and were specific to the offence. From a criminal justice perspective, this approach is backward-looking (Cunneen & Hoyle, 2010). It responds to the offence committed by informing young people about the harm caused by their behaviour.



Existing literature highlights the importance of these findings. Umbreit, Coates, and Vos (2007) theorised that restorative justice mechanisms can be differentiated not only according to those stakeholders who participated, but according to the extent and nature of such participation. When fire safety education was provided by program coordinators, it was general in nature, extended to all participants, and was forward-looking. When this information was provided by local firefighters, it was specific to the young person's offence, did not extend beyond educating the young person, and was backward-looking. Rossner and Bruce (2016) conducted a study of pre-sentencing restorative justice conferences convened for adult offenders. Based on 100 stakeholder interviews, analysis of administrative data from 204 conferences, and observation of 34 conferences, the researchers found that when victim or community representatives spoke about general harm caused by an offence, offenders and their families were less engaged in the proceedings than when the discussion focused on factors specific to the offence (Rossner & Bruce, 2016). The delivery of general fire safety education by program coordinators may therefore be less engaging to young people and their communities of care than offence specific fire safety education provided by local firefighters.

Nevertheless, the provision of forward-looking general fire safety education is compatible with the delivery of backward-looking offence specific fire safety education. In fact, program practitioner accounts suggest that both program coordinators and local firefighters have the capacity to portray both components. Program coordinators have the capacity to gather evidence pertaining to the young person's offence. As one coordinator described,

We rang the Station Officer... Got a bit of understanding about when they first arrived, what fire they were dealing with, got an understanding from AIRS [fire report] about what they responded to. It was basically evidence gathering.

Before we went there we had a very good picture about what happened and who did it and our way forward from there.

Such evidence gathering may enable program coordinators to discuss the actual and potential consequences specific to the young person's offence, and thus provide backward-looking fire safety education. In addition, local firefighters have the capacity to provide general fire safety education. As one program coordinator stated, local firefighters have "got fire brigade knowledge, background, and understanding". This coordinator suggested that firefighters have,

...the knowledge and the understanding of fire behaviour, from the experience of personnel who have actually been a firefighter, and the understanding of fire behaviour...

to stimulate cognitive and behavioural change in young people. By virtue of their occupation alone, local firefighters possess knowledge and understanding of fire behaviour necessary to deliver forward-looking fire safety education. As a criminal justice mechanism that engages both backward and forward-looking components, firefighters have the potential to contribute to both.

## 9.5. Type of firefighter

Despite evidence to suggest that program coordinators and local firefighters have the capacity to contribute to conferencing by providing both backward and forward-looking fire safety education, contention as to which type of firefighter was best placed to participate in conferencing was evident. All program practitioners agreed that you must have the right person for the job however, opinions differed as to what constituted the right person.

Two conference convenors and all program coordinators believed that program coordinators were best positioned to participate in conferencing. The convenors preferred program coordinators because they were easy to access. One convenor stated, “it’s always easier if you’ve got someone to find which you can tap into straight away rather than hunt around and find someone who’s going to attend the conference at hand.” Convenors also preferred the seniority which came with program coordinator participation because it had the potential to “add impact on what they say”. Program coordinators held the perception that they had the experience, acquired knowledge, and awareness of the purposes of conferencing to ensure the process was restorative rather than punitive. As one coordinator stated, “by virtue of experience alone, they [program coordinators] would get the idea of how it all works... it’s better coming from that point for consistency.” However, program coordinators also recognised the impracticality involved when one coordinator was responsible for attending conferences throughout the state. Coordinators thus conceded that “sometimes you’ve got to have an agent as such” to participate in conferences which were geographically dispersed. As one program coordinator said,

We've got 338 stations and all these community assets sitting out there, why can't we skill up certain individuals who are wanting to be skilled up and provide that service to the community?

On the other hand, two conference convenors and all local firefighters believed that local firefighters should be employed in conferencing. One convenor stated, "It was great to actually have a working firefighter if you like, rather than just someone from the education department because I think they provided that personal experience." When asked about future intentions, another convenor answered,

I would be more inclined to contact the local brigade to get someone who actually attended the fire, or if that wasn't possible then at least a working member rather than just someone from the education department.

Preference for local firefighters who attended the incident caused by the young person, and who thus experienced direct harm, is also evident in the JJNSW Referral Management Policy (JJNSW, 2012). The Policy quoted one conference convenor, who, when describing the implications when a corporation is identified as the victim of an offence, stated that there is no direct harm to address or redress. Consequently, victims' representatives can only be employed to educate the young person about indirect, or secondary, harm (Referral Management Policy, 2012, p. 4). Preference for local firefighters is further supported by existing literature that highlights the importance of learning about the specific harm caused by fire from the perspective of a first responder, such as a firefighter (Towers et al., 2014).

The utilisation of local firefighters may also enhance communitarianism. Based on the work of Artinopoulou and Gavrielides (2013) and Rossner and Bruce (2016), firefighters may be defined as members of the young person's macro-community because they are citizens who represent the interests of the community in which the young person resides. Their participation may enhance individual centred communitarianism, which looks for community in any manifestation which enables a support network to be built around the individual (Braithwaite, 2000). In fact, some program practitioners emphasised the importance of communitarianism when discussing the purpose of firefighter involvement in conferencing. One convenor consistently referred to the role of the firefighter as a respected member of the community who had the capacity to bring the wider community into the conference. Another convenor believed that it was important for the young person to understand the consequences their behaviour had on the wider community, stating that firefighter involvement in conferencing "brings in community involvement to a greater extent." Although communitarianism is enhanced when firefighters are drawn from the young person's community, individual firefighters may not be representative of the community in which the young person resides. All seven firefighters who participated in this study were Anglo-Australian males. This is representative of the population of full-time firefighters employed within FRNSW. The lack of ethnic or gender diversity within FRNSW may mean that firefighters are not representative of the community in which young people reside. This lack of diversity may not only impede the ability of the young person to perceive the firefighter as a legitimate member of their community, but may also impede pedagogical aims where fire safety information is male and Anglo-centric, and propagates male and Anglo-centric notions of normality. The near cultural homogeneity within FRNSW may impede the ability of conferencing to exist as a truly restorative

mechanism. However, FRNSW's Strategic Direction is to increase diversity within the workforce (FRNSW, 2013). This will begin with the targeted recruitment of gender and ethnic-diverse firefighters. Demographic change is thus expected at the grassroots, or local firefighter, level before filtering up towards more senior positions, such as that of program coordinator. The utilisation of local firefighters is thus likely to engage a more diverse and representative population than the utilisation of program coordinators.

Given evidence which suggests the need to utilise local firefighters to: address or redress harm; promote empathy and create a sense of connectedness; attain communitarianism; and represent the community from which young people derive; local firefighters who attended the incident caused by the young person appear to be best placed to participate in conferencing.

## **9.6. Preparation of firefighters**

The concept of firefighter preparation was evident in all participant interviews. The program developer stated that the MoU between JJNSW and FRNSW emerged from a need for a whole-of-government approach to YMF prevention. This participant highlighted that, during the development of the MoU, JJNSW were explicit in their desire to inform firefighters of the processes and purposes of conferencing.

[Juvenile Justice] thought, rightfully, that it was very important to have an understanding of the process so that when they [the firefighters] came along they realise it's not about punishing the person further, which is probably what a lot of people assume the process is about.

When asked whether the MoU was implemented as intended, the program developer stated that the provisions within the MoU governed the attendance of firefighters at conferences, and that firefighters were provided with sufficient information to educate them on the processes and purposes of conferencing. However, when referring to his own preparation, the program developer stated,

I had no experience previously, but by the end of it I felt quite experienced... but I still hadn't got things up and running in the way I would have liked, or the Brigade would have wanted, because it was so difficult without any assistance.

Despite the development of a formal mechanism to ensure the adequate preparation of firefighters, the provision of training, even for the firefighter responsible for program development and administration, was limited to learning through experience.

Conference convenors maintained the perception that firefighter participation in conferencing for young people who committed fire-related offences was mandated. This perception informed the way these practitioners approached conference preparation.

One convenor stated,

Normally with an agency that I'm not familiar, I've got quite a lot of things I want to go through with them. For me I thought, like, they know what they are supposed to do because they are part of a mandated personnel.

Convenors appeared to assume firefighters were adequately prepared for participation in conferencing because their presence was mandated by the MoU. Convenors assumed

that firefighters “must have some sort of policy” which governed their contribution to conferencing because “no marked differences” were observed between firefighters.

When discussing their own preparation for the program coordinator role, all program coordinators referred to learning by experience rather than any formal training. Preparation was described as “a learning curve” which occurred because of professional associations with other practitioners and self-directed study. As one coordinator described,

My colleague at the time was a clinical psychologist... So not so much formal training but just natural, working with him and discussing things, and working on the material for the intervention. Plus, I also had a colleague in the UK who came out here. The woman used to run interventions on juvenile fire setters, so I had... I was doing stuff with them as well. And also a few associations with others online. Just keeping abreast of trends. Plus, reading, if you read any Kolko stuff you’ll get good information. I just kept up to date on Kolko and what the others were doing.

Further, each program coordinator interviewed stated that they had been prepared for their role by their predecessor, beginning with the program developer. As one program coordinator experienced,

I went out with [the program developer]. He should be able to tell you all this because we didn’t have anything in place and he’s the one who trained me up.

When I rolled up to Com Safety he was there with [program coordinators].

There was only four of us. And we were the original four stooges. And I’ve been



here since. [The program developer] took me out several times. This is what we do and this is how we do it... it evolved from there.

Program coordinators were also responsible for the preparation of local firefighters. Program coordinators believed that they adequately prepared local firefighters for participation in conferencing. Two program coordinators stated that they directed local firefighters to the MoU to inform them of their purpose and role within conferencing. One coordinator stated that he directed firefighters to “the MoU, to confidentiality protocols, to everything that the Area Manager and Convenor would direct a participant towards”. This coordinator stated,

It’s all about education from our perspective. I would just basically try to tell them to keep it simple. Advise that it’s not a punitive process, it’s a restorative justice program. So, I’d fill in the gaps and answer any questions that they may have.

Program coordinators believed that the training provided to firefighters was adequate and consistent, with one program coordinator describing how they gave “a model and some cues to firefighters to use during the conference”.

However, local firefighters stated that they received little training or preparation prior to participation in conferencing. None of the local firefighters were aware of the MoU and none were provided with access to a model or cues. As one local firefighter stated, “I was free to speak how I wanted to speak”. Another local firefighter thought there were “no boundaries of what you are supposed to say and what your contribution is supposed to be” and that this “could be an embarrassing outcome for the fire

brigade.” When asked whether they felt prepared for conferencing, all local firefighters stated that they did not. One local firefighter stated that he was not aware of his role or the purpose of conferencing, “I went in there cold. I didn’t know what I was expecting. I was put on the spot quite badly.” This participant stated,

I had no idea what it was going to be about... I didn’t know there were outcomes. I didn’t know there were things that had to be done... I was completely put on the spot.

Another local firefighter responsible for monitoring an outcome plan task stated quite explicitly how unprepared and uncomfortable he felt throughout.

I was left alone with the youth at the Fire Station. I felt uncomfortable with this. I have not done a Working with Children check, and felt that I was doing a job more suitable for a youth worker, not a firefighter.

Because of his experiences, this firefighter felt he had been “put at risk by this program with no support” and stated that he would not participate again in the future. Although local firefighters believed they possessed the freedom to engage in genuine interaction, it appears a lack of adequate preparation failed to ensure the safety and readiness of these participants. This directly contravenes the Guidelines for Youth Justice Conferencing (JJNSW, 2011) which specifically state that if a corporate victim is to attend, they must be made aware of the processes and purposes of conferencing before involvement.

Despite the inconsistencies identified within each participant group, there was a common thread throughout: the pressing need for more comprehensive, formalised training. Even program coordinators who held the perception that firefighters were adequately prepared for participation called for training which was more detailed, formalised, regular, and up-to-date. Local firefighters called for the same, with one participant explicitly stating that they wanted “some knowledge of what the program is prior to attending it. What the expectations are. What my boundaries are... Education. Big time.”

Existing literature sheds light on the importance of training. Ahmed et al. (2001) theorised that training in understanding the dynamics of shame, particularly the differences between that which is reintegrative and stigmatising, is important when restorative justice practices are employed. Braithwaite (2002) highlighted the need to engage in preparatory work to reduce the risk of power imbalances which may manifest in restorative justice encounters. Stewart and Smith (2004) explored training, experience, and perceptions of Youth Justice Conferencing maintained by 184 Queensland Police Officers. The researchers found that police officers who received training in conferencing were more likely to maintain positive perceptions of the impact of conferencing on young people’s behaviour; believed participation in conferencing to be worth the time and effort; and felt confident with the procedures involved in conferencing, than police who had not received training (Stewart & Smith, 2004). Although this study is not generalisable to firefighters, it does indicate a relationship between training and perceptions of conferencing. Preparation of firefighters through the provision of adequate and appropriate training is therefore necessary to ensure firefighters: understand the dynamics of shame; do not cause further harm; have the freedom to contribute to conferencing in a way which is not over-orchestrated; maintain

positive perceptions of, and familiarity with the procedures involved in, conferencing; and do not feel as though they have been put at risk.

### **9.7. The punishment debate**

The concepts of restorative justice and punishment emerged in all interviews conducted with firefighters, however the meaning ascribed to these concepts in the context of conferencing differed according to the firefighter's role. These findings provide evidence for Daly's (2013) argument that the way in which decision-makers define the concepts of restorative justice and punishment influence one's perception of an offender and the means through which harm should be addressed.

The program developer stated that conferencing "wasn't about punishing the person further" and that it was important to emphasise to firefighters that conferencing "wasn't about any further punishment on the juvenile involved". These comments indicate that this participant believed punishment had already been inflicted through the process of apprehension, referral, and/or participation in conferencing. This participant attributed misuse of fire by young people to "the parents' behaviour and because of opportunities provided to them by parents", or young people "doing it for a cry for help", or because young people "had very troubled upbringings and lives". The aim of conferencing was to "deal with them [young people] in a way that was maybe one off, one contact, and not end up being repeat offenders." The program developer ensured his contribution to "...the outcome plan was quite mild... These people are feeling bad enough about what they've done." The perception held by the program developer aligns with Daly's (2013) position three in the punishment debate which reconciles the principles of restorative justice and punishment. Position three decision-makers have

non-punitive attitudes and perceive the offender as a good person who should repair the wrong of crime or harm caused by crime (Daly, 2013, p. 17).

Program coordinators perceived conferencing as a restorative justice mechanism which aims to repair harm. These participants held a strong desire to be non-punitive. Participants stated, “it’s not a punitive process, it’s a restorative justice program”, and “it’s not about punishing the person further, which is probably what a lot of people assume the process is about.” Program coordinators emphasised the importance of educating firefighters on the purposes and principles of conferencing. The purpose of educating firefighters was “to make sure there were no thoughts that it was about kicking heads or anything like that”, and to provide “just a bit more information so that we can avoid any of those situations where they [firefighters] feel like they have to be punitive.” Program coordinators perceived young people who misused fire as “quite good kids that got caught up in a bad moment”, “clean skins, just naughty kids”, “just kids being kids and things got out of hand.” When discussing outcome plans, these participants referred to fire safety tasks such as “working with the families to give kids the responsibility of working on a fire safety plan”. Such tasks were implemented to “let the child firesetter understand a lot better their unsafe practice... and turning it around from unsafe behaviour to safe behaviour”. The perceptions held by program coordinators align with Daly’s (2013, p.17) position two in the punishment debate which states that decision-makers have non-punitive attitudes, perceive the offender as a good person, and outcomes as constructive.

On the other hand, local firefighters appeared to maintain a tendency towards punitiveness. As one program coordinator stated, “there was a tendency for them [firefighters] to revert back to the big stick, punish someone, scare them. Scare them about the consequences of fire and that sort of thing.” Program coordinators found it

“hard to educate firefighters on the concept of restorative justice.” According to the program developer, cultural resistance impeded the education of firefighters on the process and benefits of conferencing.

As you are no doubt aware, it’s been a very blokey organisation for so long and, sort of cultural issues associated with all that. So, I was trying to bring some firies into the modern times, which was a little bit of a challenge.

A lack of awareness of restorative justice was identified within local firefighter interviews. When describing his contribution to conferencing, one local firefighter referred to options for “punishment” and limitations on what sort of punishment you can “impose” on young people within conferencing. Another local firefighter described his role as a “veiled threat” and believed he was used as a substitute for the police. This participant also held the perception that “some of these kids are plain bad”. Local firefighters’ perception of conferencing aligns with Daly’s (2013, p. 16) position one which assumes decision-makers have punitive attitudes and perceive offenders as bad people who should repay the victim’s suffering (Daly, 2013).

These findings provide evidence that the program theorises conferencing with firefighter involvement will prevent YMF by reconciling restorative justice and punishment. Firefighter involvement was theorised by the program developer to be restorative where apprehension, referral, and/or participation in conferencing were perceived as forms of punishment in themselves. Yet, program coordinators perceived the program as a restorative justice mechanism implemented as an alternative to punishment. Despite attempts to ensure local firefighters possessed the same level of awareness as program coordinators, these participants perceived their contribution to

conferencing as the imposition of punishment. Such findings provide evidence that Daly's (2013) punishment debate persists amongst firefighters involved in conferencing for YMF and further reinforces the need for adequate preparation and training.

### **9.8. Firefighters in uniform**

All practitioners noted the similarity between the firefighter uniform and police uniform. This similarity was recognised by the program developer who stated that “we do appear to look a lot like police, you know, with the light blue shirt and that sort of thing”. When queried on the impact of this similarity, several convenors stated that having a firefighter attend in uniform was beneficial because it added formality which placed emphasis on the fire safety messages delivered. As one convenor described,

It does have a bigger impact as far as the young person is concerned... The presence of someone sitting there in his uniform. It's like a police officer that is there as well, in their uniform. It does have an impact on the young person and the other people that are present.

Another convenor similarly stated,

I think it's a good idea for them to wear their uniform, the same as when the police wear their uniform. It makes the whole thing a little bit more serious, a little bit more official. And I think that's a good idea.

This added formality was identified by another convenor who stated that the presence of an authority figure was useful in other ways.

I think just to add a bit more formality to the conference. In this particular instance, it was really good because at the very last minute the Youth Liaison Officer from the police department wasn't able to attend, and in that instance, I would generally not proceed but because there was someone else, like an authority figure there, I thought it would be, and the difficulty of getting everyone in one place at one time, I thought it would be really useful to continue. It was very useful.

As discussed in Chapter 5, existing literature indicates contention as to whether a firefighter in uniform enhances, has no effect, or is detrimental to pedagogical outcomes (Haines et al., 2006; McDonald, 2010). This contention is also reflected within program practitioner interviews. Some participants implied that a firefighter in uniform may generate a power imbalance by arousing a sense of anti-authority in young people and may be detrimental to conference process and outcomes. One convenor said,

My feeling is that if the young person is not showing some respect towards the person, whether they be a firie [firefighter] or whatever, it puts some doubt as to whether the matter can be dealt with by conference or whether they need to be dealt with by a magistrate in court. It [respect] definitely impacts the young person's ability to express remorse.

To avoid arousing a sense of anti-authority in young people, one firefighter stated, "I did ensure that I distanced my views from the police. I was conscious of that." Similarly, one program coordinator specified,



First of all was the introduction so they knew who we were in the uniform...

Because we didn't want the brick wall up... the significance of that was to let the juvenile firesetter know that I'm not the police. Because when we sit side by side in blue shirts, we're the police. So, there is a misunderstanding. What I'm there for is not to beat them up. I'm there to help them change their behaviour.

Although there is no existing literature pertaining to firefighter involvement in conferencing, there is some evidence to suggest that young people maintain negative perceptions of police (see section 5.3.1) suggesting that the presence of a uniformed officer in conferencing may arouse a sense of anti-authority in young people. If firefighters in uniform are perceived as authority figures, their presence may generate a sense of anti-authority in young people. Further, restorative justice requires non-domination, informalism, and empowerment, factors which may be impeded by the presence of an authority figure in conferencing. If a uniformed firefighter is perceived as an authority figure by the young person, the presence of a firefighter in conferencing may prove incongruous to the values of restorative justice<sup>6</sup>.

## **9.9. McDonaldisation**

McDonaldisation was a term employed by Umbreit (1999) to refer to the process whereby restorative justice mechanisms become mainstream, prioritising efficiency, calculability, predictability, and control over restorative elements. Although managerial components are necessary for program evaluation, too much emphasis on these factors has the potential to morph restorative justice mechanisms into impersonal,

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<sup>6</sup> To determine how young people perceive firefighters and the effect these perceptions have on the processes, outcomes, and impact of conferencing, future research should explore the experiences and perceptions of young people.

mechanistic social services (Umbreit, 1999). The McDonaldisation of conferencing with firefighter involvement became evident when analysing: the inclusion of firefighters; the professionalisation of firefighter involvement; and fire-specific outcome plan tasks.

### **9.9.1. The inclusion of firefighters**

The utilisation of firefighters in conferencing was perceived by conference convenors as a mandated condition. Firefighter inclusion was described as “automatic” and “just part of the policy”. All conference convenors referred to the MoU as a regulation which mandated firefighter attendance and all convenors utilised the MoU to facilitate the administration of such conferences without deviation. Convenors also mentioned s8 *YOR* 2010 which lists the fire-specific undertakings for which a young person’s outcome plan must provide. Here, conference convenors coupled the inclusion of fire-specific outcome plan tasks with firefighter attendance. Firefighter attendance was thus perceived as “a requirement under the legislation” because the legislation required fire-specific outcome plan tasks. As one convenor stated, the firefighter is “an added factor that is designed to add certain features to an outcome plan”. Two convenors stated that this mandated provision limited their discretionary powers and removed any need for reflective thinking about what individual participants may bring to conferencing. As one convenor described,

The fact that its mandated... I would have given more thought to it but sometimes when you’re told its mandated, he has to come, he has to be there. So, that takes away a bit of my reflective thinking.

Program coordinators were employed by FRNSW to administer firefighter involvement in conferencing. Although their role required participation in conferencing, it also provided for delegation to suitable local firefighters. However, program coordinators appeared to perceive the voluntary nature of their participation as mitigated by a lack of options for delegation. As one program coordinator stated,

Primarily, because I felt that some people had a little bit of information and they felt that their abilities were far greater than what they actually were. So, they'd get a little bit of information and they'd go in half-cocked to these things. With all good intentions, it was actually a little bit destructive some of the things they were saying. They'd be punitive. Being that it's a restorative justice program... to address that risk where I could, I would attend, which is why I have done so many.

The power vested in this program coordinator to delegate participation to local firefighters was therefore constrained by the participant's perception that delegation to other firefighters was too risky based on a lack of awareness or understanding of the purposes and principles of conferencing; a perception which was reinforced by the findings discussed in the previous section. Overall, such perceptions suggest that firefighter participation in conferencing is perceived as a mandated condition governed the MoU, *YOR*, one's job description, and/or a lack of options for delegation. Such perceptions indicate that firefighter inclusion in conferencing may tend towards McDonaldisation by moving away from voluntariness towards mandated attendance.

### **9.9.2. The professionalisation of firefighter involvement**

Since the formal implementation of firefighter involvement in conferencing over 10 years ago, the program has been administered and implemented on behalf of FRNSW by four Community Safety Coordinators. Three of these coordinators agreed to participate in this study. The first program coordinator employed to facilitate firefighter involvement in conferencing participated in approximately 100 conferences over a five-year period (2006-2010). This coordinator's successor participated in approximately 150 conferences over a subsequent five-year period (2010-2015). The third program coordinator acted in a part-time capacity, fulfilling the role of Community Safety Coordinator during periods of leave/absence. This coordinator participated in approximately 40 conferences over a six-year period (2006-2012). Program coordinators can be defined as professional service providers because they were employed by FRNSW to administer and facilitate firefighter involvement in conferencing. Where these coordinators maintained a preference for participating in conferences themselves, rather than delegating to local firefighters, firefighter participation in conferencing became professionalised.

The Referral Management Policy (JJNSW, 2012) states that the process of nomination of an agency representative to participate in conferencing may need to be formalised to ensure that the representative is authorised to negotiate an outcome plan on behalf of the organisation. When resources and time are limited, program coordinators may be the only firefighters readily available who understand the principles, purposes, and processes of conferencing. Utilising program coordinators may therefore enhance efficiency in planning, preparing, and administering conferencing. However, the idea that program coordinators are best placed to participate in conferencing due to acquired experience and authorisation to negotiate is problematic,

as detailed in Chapter 5. When program coordinators act as ‘quasi-professionals’, the sense of authority associated with their acquired experience has the potential to change the dynamics of the conference, undermine the voluntary and collaborative nature of conferencing, and lead to outcome tasks which are not tailored towards the needs of the young person.

Interviews conducted with program practitioners revealed this phenomenon may occur when program coordinators participate in conferencing. Most program practitioners stated that young people viewed a fire safety video as a component of their outcome plan, a video brought to the conference by the program coordinator based on the assumption that it would be viewed. As one coordinator stated,

Regularly used a video as a component of the outcome plan... Showed at the same time as the conference. Took a laptop with us and showed that to the child... It was like a little viewing... Sometimes I was on the road and I'd get a phone call because someone's forgotten, and you just covered it [a conference]. You had your laptop with you thank goodness, and showed it [the video] on the laptop.

This comment indicates that this program coordinator maintained the assumption that young people would view the fire safety video as a component of their outcome plan, prior to gathering any knowledge about the young person or their offence. The experience and familiarity program coordinators have with outcome plans may thus lead to the inclusion of generic fire-specific tasks which are not tailored towards the needs of the young person.

Rossner and Bruce (2016) found that participants involved in restorative justice

conferences would defer to suggestions made by repeat players because their experience gave them a “particular authority when negotiating outcomes” (Rossner & Bruce, 2016, p. 118). These repeat players exerted significant influence over decision-making processes, which had the potential to disempower other participants and impede restorative dialogue. Program practitioner perceptions offer some evidence in support of this phenomenon. When relaying his contributions to outcome plan discussions, one firefighter stated,

So, we worked out as a group what was the punishment to be, and they all looked to me... That was the weird part about it, or the uncomfortable part. That the justice people, and the police, and the family, looked towards me.

In this instance, the firefighter may have been perceived by other participants as the decision-making authority in the negotiation of the outcome plan tasks. The repeat player effect associated with program coordinator participation in conferencing may therefore impose upon the voluntary and collaborative nature of conferencing, disempowering other participants and impeding restorative dialogue. Although the repeat player effect can be mitigated through training (Rossner & Bruce, 2016), this study has found training for program coordinators is lacking. Without adequate and appropriate training, the utilisation of professionals who understand the principles, purposes, and processes of conferencing to enhance efficiency in planning, preparation, and administration of conferencing may lead to McDonaldisation.

### **9.9.3. Fire-specific outcome plan tasks**

Program practitioners believed the showing of a fire safety video was a mandated component of a young person's outcome plan and there was generally not much discussion pertaining to its inclusion. One convenor stated that "with arson offences, they have to do this mandated program with the firefighter". Another convenor stated that when the firefighter first introduced himself to the other participants at the commencement of the conference, he mentioned that he would play a video after the conference as part of a mandated condition. Thus, "the young person already knew that there was part of it that they had to do." Program coordinators and local firefighters also perceived the viewing of the video as mandated. One local firefighter stated, "He had to watch a video from memory. I got a copy of it. A video designed to provide education as to the harmful effects of fire".

Practitioners expressed concerns regarding the mandatory viewing of the video. One convenor asked "Has it got to be just that video? Is there another way that the person can get the information across to young people?" Another convenor stated that the mandated condition "took some of the control away from the participants as far as what's going to be in the outcome plan." Most convenors stated that they facilitated the viewing of the video immediately after the conference had concluded. One conference convenor found this highly problematic, stating that convenors must manage the conference to ensure it occurs in a succinct and timely manner, and that the viewing of the video prolonged the conference, heightened restlessness, and reduced the impact of the fire safety message. The convenor stated that,

For young people, their attention span is not very long. The message was definitely there, but it was prolonged. It just seemed very long to me, it loses a

little bit of its impact...I'm not quite sure how much they actually take back with them.

Convenors also stated that the video was viewed immediately after the conference because firefighter resources were limited and the firefighter could not allocate another time to facilitate the viewing of the video. In one instance, the firefighter gave the convenor a timeframe which meant that the convenor did not have the opportunity to allow for a break and refreshments, which is a legislated component of the conference process. The convenor expressed that,

... there is very limited resource. We had to wait for this particular person. So, in terms of resourcing, I think that's a problem. Because we wanted to look at other dates and all that, but we were quite limited because of the personnel involved. I asked, 'Is there any other personnel than yourself?', and he said 'No'. I thought, 'Wow. That's a big job'.

Another convenor indicated preferences for outcome plan activities to be carried out at another time and that the showing the video and the environment in which it is viewed be carefully considered to ensure the fire safety message has the greatest impact.

Participants' influence over outcomes appears to be constrained by the perception that the viewing of the fire safety video was a mandated component of a young person's outcome plan. This perception disempowered participants by limiting potential to engage in negotiation and decision-making processes and by impeding the administration of the conference. Program practitioner perceptions thus indicate the



McDonaldisation of conferencing where the collaborative processes involved in outcome plan decision-making were impeded by perceived mandates.

### **9.10. The manifestation of YMF/perceptions of effectiveness**

Misuse of fire was perceived by program practitioners as a manifestation of normal developmental behaviour, a symptom of psychopathology, or both. Participant descriptions of the manifestation of misuse of fire reflect the two broad aetiological streams identified within existing literature. Further, the way in which participants perceived the manifestation of the behaviour was related to their perceptions of effectiveness of the program.

#### **9.10.1. YMF as normal developmental behaviour**

Nine participants described misuse of fire as normal developmental behaviour. These participants stated that young people engaged in fire-related offences due to necessity, interest, experimentation, and/or a lack of fire safety knowledge. Participants described fire-related offences as “just kids being kids”, a manifestation of learned experiences and opportunities provided to young people by their parents, “good kids caught up in a bad moment”, “just young kids, late at night, huddled together in a park, lighting a fire trying to keep warm.” One participant stated,

A lot of people are fascinated by fire but they don't realise how dangerous it is and how quickly things can get out of hand. They think I'll just go and light this bush, and it's a windy day and before you know it, all these paddocks are alight and away it goes. They don't understand and have respect for how quickly a fire moves and they could end up getting hurt themselves.

Another participant described one young person whose behaviour was originally perceived as psychopathological but which, after further investigation, was revealed to be a product of normative fire interest and experimentation. This participant stated,

...one kid was just, it wasn't a condition of fire fascination unhealthy, he was interested in science, and I think that was lost on people. When I met with his family, we found out he just loved science. He was playing around with fire and burnt the house down. But it wasn't the thrill of it, it wasn't criminal behaviour, he just liked science. When we started looking at other options for him, little science experiments, he didn't have to go back to fire.

Although misuse of fire was considered normal developmental behaviour by most participants, the behaviour was also deemed high risk. Participants spoke about the risks associated with misuse of fire, such as damage to property, loss of life, and the risks experienced by firefighters when responding to the fire. One participant stated,

I guess young people, when they do fire-related things, when they commit these offences, there's not much forethought as to the consequences when they are actually doing them. The consequences of a fire-related offence can be extremely serious. I mean other offences can also be serious, but fire-related offences have the potential to be severe, can severely injure or kill people.

The perception that misuse of fire may manifest from normal developmental behaviour is supported within existing literature. There is some consensus within the

literature that interest in fire is developmentally appropriate. Fire interest has been identified as a strong predictor of misuse of fire and its persistence meaning normal developmental misuse of fire is likely to co-occur with normal developmental fire interest (Gaynor, 1996; Fessler, 2006; MacKay et al., 2012; Pinsonneault, 2002). The applicability of the criminal careers framework and the age-crime curve to misuse of fire indicates that young people's involvement in misuse of fire may be transient and self-limiting (Britt 2011; Del Bove, 2005; Pinsonneault 2002; Stadolnik, 2000; Tomison, 2010). Recently, opportunity theories have been applied to explain spatio-temporal patterns of misuse of fire which assume motivation to engage in fire-related behaviour is intrinsic (Pooley & Ferguson, 2017). For further information, refer to Chapter 2.

### **9.10.2. YMF as a symptom of psychopathology**

Three participants described misuse of fire by young people as a manifestation of external stressors and cognitive impairment. The program developer stated that, “a lot of these people had very troubled upbringings and lives and this is probably the reason why a lot of them did what they did.” This participant later described the manifestation of some instances of YMF as “a cry for help.” One local firefighter believed one young person involved in a conference was “developmentally and intellectually challenged, and was easily led.” This participant stated “I don't think he had the capability to understand how dangerous his actions were to causing damage to someone's property.” The third participant, a local firefighter, stated that “some of these kids are plain bad”.

The perception that misuse of fire may manifest as a symptom of psychopathology is supported within existing literature. Psychologists, psychoanalysts, and psychiatrists have utilised a medical model to explain misuse of fire as a symptom

of, but not limited to, disordered sexual development, schizophrenia, externalising and internalising problems, aggression, delusions, and limbic system dysfunction (Caudill et al., 2012; Heath et al., 1983; MacKay et al. 2012; Morris, 2014; Root et al., 2008; Stadolnik, 2000; Stockburger & Omar, 2014). Misuse of fire has been portrayed as a discrete behaviour with its own unique symptomology (American Psychiatric Association, 2014) and as a strong and recurring correlate of anti-sociality (Huff, 2014; MacKay et al., 2012; McCarty & McMahon, 2005). For further discussion, refer to Chapter 2.

### **9.10.3. Perceptions of effectiveness**

The way in which participants perceived the manifestation of misuse of fire was related to their perceptions of effectiveness of the program. All participants who described misuse of fire as a manifestation of normal developmental behaviour believed the delivery of fire safety education had the capacity to change the behaviour of the young person.

Conference convenors all perceived misuse of fire as a manifestation of normal developmental behaviour. These participants also thought that the provision of fire safety education gave young people the knowledge required to identify the actual and potential consequences of misusing fire. One convenor described firefighter attendance as “adding to their sense of seeing how serious the offence is, or could be”. Having a firefighter present was described as beneficial because it “brings the message home” and provides “a much better perspective as far as the dangers of fire.” Conference convenors described firefighters as “experts”, and “credible elements”, and firefighter involvement as “professional”, “competent”, and “very worthwhile”. All convenors stated that they would recommend firefighter involvement for all conferences convened

for young people who committed fire-related offences. As one convenor stated, “I don’t think I’d be prepared to run a conference without somebody [a firefighter] there, if arson is part of the offence.”

All program coordinators described misuse of fire as a manifestation of normal developmental behaviour. These participants also felt that their involvement was effective in educating the young person on the consequences of fire. Fire safety education was deemed “better coming from a firefighter”, not only because firefighters have fire experience and knowledge, but because “firefighters have a fairly good reputation... we are a trusting and decent lot and that comes across with the kids.” Another program coordinator stated that the worth of the program was immeasurable.

...you just don’t know that one brochure, one bit of information, might change one person’s human behaviour in their household that could save their life. You just can’t measure it.

Program coordinators believed the program was not only worthwhile for young people and conference participants, but for participating firefighters. One coordinator stated that firefighters “felt like they’d achieved something. They’d got the message through.” Program coordinators agreed that firefighter involvement in conferencing was worthwhile and recommended continuation of the program.

The local firefighter who perceived misuse of fire as a normal developmental behaviour stated that firefighters “have a role to play” in conferencing, and that firefighter involvement was “important”. When discussing firefighter participation in conferencing, this participant stated,

If these people have this tendency now, they are our future customers, so could end up getting hurt, seriously injured. So, we need to stop behaviour like that at the earliest point we can, when we first get alerted to it.

Participants who believed misuse of fire manifested as a symptom of psychopathology maintained less positive perceptions of effectiveness. The local firefighter who described one young person as “developmentally and intellectually challenged” stated that it was “hard to gauge” whether the provision of fire safety education had an impact “given his mental capacity”. The local firefighter who described one young person as “plain bad” stated that the young person expressed no remorse, “had not respect or fear of authority” and that the provision of fire safety education had no impact. This participant also stated that he did not think firefighter involvement was worthwhile, and that he would not participate again in the future. Finally, when the program developer discussed misuse of fire which co-occurred with more complex behavioural issues, the participant stated that “you would have to tip toe around the reasons behind the behaviour to try and point out things [fire hazards], but it was very difficult on occasions.”

Such findings indicate that program practitioners perceived the provision of fire safety education as sufficient in targeting and reducing misuse of fire which manifested as normal developmental behaviour, while being insufficient when the behaviour manifested as a symptom of psychopathology. As discussed previously (sections 2.3.2, 2.4.3, & 3.5.1), this finding reflects the notion within existing literature and the philosophy underpinning Youth Justice Conferencing generally that conferencing is applicable to YMF which occurs as a normal developmental behaviour, but may be

insufficient in and of itself when the behaviour manifests as a symptom of psychopathology.

### **9.11. Conclusion**

The eight major tensions identified interrelate and influence one another. Firefighter contribution informs the type of firefighter who should be employed within conferencing. However, the preparation of firefighters mediates this relationship because, although local firefighters attended the incident caused by the young person and were best placed to participate in conferencing, they received the least training and preparation, and thus had a tendency towards punitiveness. The preparation of firefighters, or lack thereof, can thus explain the manifestation of Daly's punishment debate where level of training and preparation related to degree of restorativeness or punitiveness. The preparation of firefighters, or lack thereof, also informed McDonaldisation via the professionalisation of firefighter involvement. Program coordinators believed they were best placed to participate in conferencing because their level of preparation and training exceeded that of local firefighters and consequently, they were more restorative than punitive. However, the professionalisation of firefighter involvement engendered mandated outcome plan inclusions because program coordinators believed the viewing of a fire safety video was a mandated component of a young person's outcome plan. McDonaldisation via the perceived mandated inclusion of firefighters interrelated with role fluidity because convenors' lack of discretion in inviting a firefighter to attend conferencing was mitigated by discretion as to how to define firefighter involvement. Firefighter in uniform related to perceptions of effectiveness where a firefighter in uniform may have aroused a sense of anti-authority in young people which may, in turn, have generated perceptions that firefighter

involvement in conferencing was ineffective. Finally, the way practitioners perceived the manifestation of YMF related to their perceptions of effectiveness. Program practitioners perceived the provision of fire safety education as sufficient in targeting and reducing misuse of fire which manifested as normal developmental behaviour, while being insufficient when the behaviour manifested as a symptom of psychopathology. The interrelation of these tensions has implications for restorative justice, fire prevention, and CC-DRR.

Based on this preliminary exploration, it appears that firefighter involvement in conferencing has implications for restorative justice. On one hand, firefighter participation has the capacity to further restorativeness in process and outcome by providing conference convenors with the power of discretion to define firefighters in whatever capacity best met the needs of each conference. Further, when local firefighters attended conferencing, they had the capacity to address or redress harm, promote empathy and create a sense of connectedness, attain communitarianism, and represent the community from which young people derive. On the other hand, this capacity was limited by inadequate preparation which failed to ensure the safety and readiness of these participants. Exploration of the way in which firefighters perceived young people and conferencing indicates that Daly's (2013) punishment debate persists among practitioners involved in conferencing for YMF; further evidence that training is currently inadequate. The inclusion of a firefighter in uniform revealed tension between formality which added impact to the conference, and the presence of an authority figure who had the potential to impede the attainment of non-domination and empowerment. Finally, a trend towards McDonaldisation was evident where: firefighter inclusion was perceived as mandated; firefighter participation became professionalised; and specific



outcome plan tasks were deemed mandatory. Conferencing with firefighter involvement thus appears to prioritise managerial components above restorative elements.

Firefighter involvement in conferencing also has implications for fire prevention. When fire safety education was provided by program coordinators, it was general in nature, extended to all participants, and was forward-looking. When this information was provided by local firefighters, it was specific to the young person's offence, did not extend beyond educating the young person, and was backward-looking. The type of fire safety education delivered effects the scope of fire prevention. Forward-looking fire safety education aims to improve fire-related cognitions and behaviours in people to mitigate the risk of, and consequences associated with, future misuse of fire. Backward-looking fire safety education aims to make people aware of actual or potential harm caused in the hope they will accept responsibility for this harm, express remorse, and engage in acts of reparation. Despite this disparity, program coordinators and local firefighters have the potential to deliver both forward and backward looking components which are essential to criminal justice mechanisms generally. Further, perceptions pertaining to the manifestation of misuse of fire and program effectiveness posed implications for fire prevention. Findings indicate that the provision of fire safety education by firefighters in the context of conferencing was perceived as effective in targeting misuse of fire which manifested from normal developmental behaviour, while being insufficient when the behaviour manifested as a symptom of psychopathology. According to these findings, the capacity of the program is limited to young people whose misuse of fire manifests from normal developmental behaviour.

Finally, firefighter involvement in conferencing has implications for CC-DRR. On one hand, firefighter involvement furthers CC-DRR principles. Participants agreed that the main function of firefighter involvement in conferencing was the delivery of

fire safety education. One of the core principles of CC-DRR is the provision of knowledge and information which expands young people's knowledge and strengthens their skills. Further, evidence suggests that young people value post-fire incident activities that promote empathy and connectedness, such as learning about the direct experiences of first responders (Towers et al., 2014). CC-DRR research thus indicates that learning about direct experiences of firefighters may elicit emotional responses such as empathy and remorse, which may in turn instigate behavioural change. On the other hand, conferencing for YMF has the potential to impede the attainment of CC-DRR. CC-DRR requires democratic and consultative processes through which young people create opportunities, have a voice, and negotiate outcomes. The findings reveal that conferencing with firefighter involvement impedes these aims when program practitioners perceived certain outcome plans tasks as mandatory. This perception disempowered young people by limiting their opportunity to engage in negotiation and decision-making processes.

It is important to note that this study utilised a small sample ( $n = 11$ ) meaning findings may not be generalisable to all program practitioners involved in facilitating firefighter involvement in conferencing. Nevertheless, this preliminary exploration has revealed that firefighter involvement influences the process, outcomes, and impact of conferencing, with implications for restorative justice, fire prevention, and CC-DRR.

## **Chapter 10: Discussion**

### **10.1. Introduction**

This chapter will discuss the theory underpinning the program in conjunction with the results from the retrospective and exploratory components of the study to address the research questions.

### **10.2. How does the program theorise conferencing with firefighter involvement will prevent youth misuse of fire?**

It was theorised that conferencing with firefighter involvement would act as a YMF tertiary prevention mechanism. Specifically, the MoU implies that firefighter participation, the provision of fire safety education, and the inclusion of fire safety related tasks within the outcome plan would reduce the likelihood of fire-related recidivism in young people who participated in conferencing for YMF. The program theorises that firefighter involvement in conferencing will facilitate the prevention of YMF where: firefighters are stakeholders who particularise the intervention to the offence; firefighters are respected; firefighters are perceived as members of the community; firefighters have the capacity to provide offence specific fire safety education; fire safety education leads to behavioural change; firefighters are perceived as victims; firefighters have the capacity to communicate harm caused; firefighter involvement facilitates a reduction in recidivism; and fire-specific outcome plan tasks tailor the intervention to the offence and reduce fire-related recidivism.

### 10.2.1. The inclusion of firefighters

Theoretically, firefighter involvement in conferencing for YMF provides a mechanism through which the restorative justice principle of *equal concern for all stakeholders* can be realised. Firefighters are defined as stakeholders because they are required to respond to, and mitigate the consequences of, fires caused by young people. Firefighters may also be defined as stakeholders when they did not personally attend the fire caused by the young person, but attended the conference as a representative of a fire service which did. Umbreit et al. (2007) stated that one way to differentiate restorative justice mechanisms is to identify which stakeholders are present. The program incorporates a firefighter as a stakeholder, an inclusion which is unique to conferencing for YMF.

Analysis of the MoU (2011) revealed that firefighter participation in conferencing enables the provision of fire safety education and the inclusion of fire safety related tasks within a young person's outcome plan. Firefighter inclusion is therefore necessary to ensure the *intervention is particularised to the individual's offending*. This study has revealed empirical support for this proposition. Quantitative analysis of Youth Justice Conferencing records revealed a statistically significant association between firefighter involvement and outcome plan fire-specificity. Deeper analysis revealed that outcome plans which were fire-specific and appropriate occurred more often when a conference included a firefighter, and outcome plans which were not fire-specific and were inappropriate occurred more often when a conference did not include a firefighter. In addition, content analysis of program practitioner interviews revealed that program practitioners believed that the purpose of firefighter involvement in conferencing was the provision of fire safety education and inclusion and monitoring of fire-specific outcome plan tasks. Based on the evidence derived from this study,

firefighters are stakeholders of fire-related offences who particularise Youth Justice Conferencing to fire-related offending.

### **10.2.2. Firefighters are respected**

As per the program theory, if young people hold regard for firefighters, then this *regard for model* is likely to instigate behavioural change and reduce the likelihood of fire-related recidivism. The inherent assumption that young people hold regard for firefighters is further entrenched by the program theory when a firefighter attends conferencing as a respected community member. However, analysis of existing literature indicates that as young people mature, they may possess a normal developmental decline in favourable attitudes towards authority figures. Firefighters may be reasonably perceived as authority figures because they wear their dress uniform whilst attending conferences, a uniform which is very similar to that of police. Content analysis of program practitioner interviews revealed that the firefighter dress uniform is very similar in appearance to the police uniform and that this had the potential to arouse a sense of anti-authority in young people. Although, some participants believed the presence of a firefighter in uniform added a degree of formality to the proceedings which was beneficial, the presence of an authority figure has the potential to undermine the restorative principle of *non-domination*.

Content analysis of interviews conducted with program practitioners revealed differing perceptions on firefighters and *respect*. One firefighter stated that the young person “had no respect or fear of authority” and believed that the conference was ineffectual. One convenor stated that although some young people do not “have respect as far as uniformed people are concerned, the majority of young people do still have that respect”. In fact, convenors thought respect was pertinent to the arousal of remorse and

ultimately, to the success of a conference. Although the program theory relies on the assumption that firefighters are respected, the evidence indicates that this may not always be the case. Further, respect may be a variable which has the potential to impact upon the young person's ability to express remorse and thus, the overall success of the conference. Based on the evidence from this study, the assumption that firefighters are respected by young people is neither empirically supported nor opposed. Further investigation, specifically that which draws upon the experiences and opinions of young people, is necessary.

### **10.2.3. Firefighters are members of the community**

If a firefighter attends a conference as a respected community member, there is an assumption that the firefighter will be perceived as a member of the community by all involved. If so, firefighter participation provides a practical mechanism through which the restorative justice principles of *participatory community* and *communitarianism* may be realised. A firefighter who is known to the young person or who was directly affected by their offence can be defined as a member of the micro-community, while a firefighter who represents community interests can be defined as a member of the macro-community. Either way, conferencing provides an avenue through which firefighters can participate as a member of the young person's community.

*Communitarianism* may in turn be realised where this community is governed by social cohesiveness, shared norms and values, and an understanding of the context of the young person's offending.

Analysis of the MoU (2011) indicated that firefighters should be drawn from the geographical community in which the young person committed their offence and thus presumably resides. However, the MoU's presumption that geographical commonality

manifests into a perception of community remains untested. Further, firefighters are not always drawn from the geographical area which encompasses all participants.

Documentary analysis highlighted that there was a disproportionate number of firefighters who participated in conferencing compared to the number of regions in which conferences have been held. Finally, FRNSW firefighters are predominantly Anglo-Australian males propagating male and Anglo-centric notions of normality. Quantitative analysis of Youth Justice Conferencing records revealed that, although most young people who participated in conferencing for a fire-related offence were Caucasian-Australian males, there was an over-representation of young people who identified as Indigenous-Australian and numerous young people who identified as a member of an ethnic minority. When a young person does not identify as Caucasian-Australian, firefighters may not be perceived as representative of the community from which the young person derives and the conference may not be culturally appropriate. This is problematic because content analysis of interviews conducted with program practitioners highlighted the importance of *communitarianism*.

Whether firefighters should be drawn from the local community, or sourced from a specialised unit, was also a contentious issue. When discussing the type of firefighter best suited to conferencing, all program practitioners agreed that you must have the ‘right person’ for the job. However, what constituted the ‘right person’ differed by participant group. Program coordinators believed it more appropriate to utilise specialised, trained firefighters than local firefighters because local firefighters lacked awareness of the processes and purposes of conferencing and were not always authorised to negotiate an outcome plan on behalf of the organisation. While some convenors preferred trained, specialised firefighters over local firefighters, others expressed preference for local firefighters. However, it appears that the argument

against using local firefighters relied on the notion that they possessed no knowledge or awareness of the processes or purposes of conferencing and may not be able to suggest appropriate outcome plan tasks. The question thus became one of capacity.

Capacity is likely to be influenced by knowledge acquired through preconceived ideas and training. When asked about the difficulties faced during the implementation of conferencing for YMF, one program practitioner revealed that the fire service was a “...very blokey organisation for so long and... sort of cultural issues associated with that. So, trying to bring some fires into the modern times was a little bit of a challenge.” This perception indicates that some firefighters maintained preconceived ideas about YMF and the conferencing process. To challenge preconceived ideas, adequate and appropriate training is pertinent. The importance of training local firefighters prior to participation in conferencing was a reoccurring theme in program practitioner interviews. Education pertaining to restorative justice was deemed important given a tendency towards punitiveness identified by some program practitioners. One coordinator stated that the more punitive the other participants in the conference, the more punitive the firefighter. Another practitioner stated that training in restorative justice is necessary to ensure firefighters understand the purpose of conferencing and their role within it so that “any of those situations where they feel like they have to be punitive” are avoided. Despite recognition of the importance of training, content analysis of program practitioner interviews revealed this to be an area of contention. When it came to firefighter preparation, there was a clear disconnect between what the program developer intended would be provided, what conference convenors assumed was being undertaken, what program coordinators believed they were providing, and what firefighters received. Despite this disconnect, all practitioners agreed that more



comprehensive, formalised, up-to-date training was necessary to better prepare firefighters for conferencing.

Although the involvement of firefighters may enhance *participatory community* and *communitarianism*, male and Anglo-centricity, lack of capacity, and inadequate preparation may impede the realisation of these aims. This may have implications for the attainment of restorative justice and fire prevention.

#### **10.2.4. Firefighters have the capacity to provide offence specific fire safety education**

Firefighters are expected to provide offence specific fire safety information which is pedagogical. The MoU states that firefighters will draw upon their wealth of knowledge and experience to educate participants on the consequences of misusing fire. According to the program theory, this provision of fire safety information is expected to instigate *vicarious learning* where young people are conditioned by the direct experiences of the firefighter. Further, by providing young people, and other participants, with *access to knowledge and information*, firefighters can unpack, and make transparent, the risks associated with YMF.

Content analysis of interviews revealed that all program practitioners perceived firefighters to be experts on fire. The idea that “fire safety education is better coming from a firefighter”, and thus that firefighters have an educative function, was reiterated by most program practitioners. Convenors relied heavily on firefighters to deliver fire safety education. In fact, there was an underlying expectation that firefighters possessed the capacity to provide offence specific fire safety education. However, analysis also revealed that capacity to deliver offence specific fire safety education differed between program coordinators and local firefighters. Program coordinators did not attend the

incident caused by the young person. Consequently, they delivered general fire safety information which was tailored towards the young person's offence based on evidence gathered. Interviews revealed that local firefighters attended the incident caused by the young person and were thus able to inform the young person about the actual consequences associated with their misuse of fire. According to participants, local firefighters were very specific in the information they provided, informing young people, step-by-step, the risks associated with responding to, and suppressing, the fire caused by the young person.

Despite differences in the way in which firefighters gathered offence specific information, most program practitioners believed that the fire safety content delivered by firefighters was consistent across conferences. Program practitioners stated the fire safety messages delivered by firefighters was comparable, consisting of the actual and potential consequences of misuse of fire, and the impact of misuse of fire on others, the fire brigade, and young people themselves. Conference convenors believed that while contributions made by firefighters differed in number and timing, consistency in content arose from internal policy and the utilisation of a fire safety video. Program coordinators believed that the fire safety information delivered by firefighters was consistent across conferences because they provided local firefighters with sufficient mechanisms to govern their contribution, despite preferring to participate themselves to ensure consistency in practice. However, local firefighters stated that they were not provided with any mechanisms through which consistency could be obtained and believed they had the freedom to contribute to conferencing as they saw fit. Again, a clear disconnect is evident between what conference convenors assumed existed to ensure consistency in the delivery of fire safety education, what program coordinators believed they provided to local firefighters, and what local firefighters received.

Nevertheless, there is evidence to suggest that firefighters, regardless of whether they were program coordinators or local firefighters, maintained the capacity to provide offence specific fire safety education.

#### **10.2.5. Fire safety education leads to behavioural change**

Conferencing for YMF assumes that YMF is the product of a lack of fire knowledge and poor fire safety skills, and that fire safety education is required to reduce the risk of future YMF. By *expanding knowledge and strengthening skills*, fire safety education ensures young people are *informed on anticipated consequences of prospective use of fire*. As per the program theory, if young people are equipped with *adaptive capacity*, they may alter their fire cognitions and behavioural repertoire because of new informational input. Changes in capacity may in turn *reduce recidivism*.

Program practitioner interviews revealed that most participants believed that misuse of fire by young people was normal developmental behaviour and that fire safety education provided a means to change unsafe fire behaviour into safe fire behaviour. All but one program practitioner perceived the provision of fire safety education by firefighters as effective when YMF manifested as normal developmental behaviour. Conference convenors believed firefighter involvement in conferencing heightened young people's awareness of the actual and potential consequences of misuse of fire. Firefighters were thought to add weight to the seriousness of the behaviour and enhance the likelihood young people would express remorse. Program coordinators agreed, adding that fire safety education delivered by a firefighter was perceived as legitimate because they were respected by young people. Local firefighters were less certain of their impact. Nevertheless, all but one participant felt firefighter involvement in

conferencing had the potential to change fire-related cognitions and behaviours in young people whose misuse of fire manifested from normal developmental behaviour.

In fact, fire-specific outcome plans were found to be statistically significant predictors of recidivism. Calculations using cox proportional hazards regression revealed that when a young person received a fire-specific outcome plan containing one fire-specific task, the risk of general recidivism was reduced. Although the most common fire-specific task within a fire-specific outcome plan was the viewing of a fire safety video, this variable was not a statistically significant predictor of recidivism. Such findings suggest that undertaking a fire-specific outcome plan containing one fire-specific task, but not any one task in particular, may contribute to cognitive and behavioural change in young people. Despite contributing to the literature, this study did not draw upon the experiences and opinions of young people. Such research is required to provide deeper insight into how and why fire safety education leads to behavioural change in young people.

#### **10.2.6. Firefighters are perceived as victims**

The program theorises that firefighters can embody the role of a corporate/victim/victim's representative within a Youth Justice Conference. As a victim, the firefighter portrays actual harm caused because of their response, or their agency's response. This may lead to an emotive reaction in the young person, *acknowledgement of dominion impinged*, an expression of *remorse*, and subsequent *responsibilisation* for harm caused.

Quantitative analysis of Youth Justice Conferencing records revealed a statistically significant association between firefighter involvement and victim involvement. Further analysis revealed that firefighter involvement occurred more often

when a conference did not include a victim, and less often when a conference included a victim. These findings suggest that firefighters may have been used within conferences to fulfil the role of a victim when a direct victim was not identifiable or available.

Content analysis of program practitioner perspectives also indicated that firefighters attended conferencing as a victim's representative. Two practitioners believed that firefighters should attend in this capacity because "It would have a bigger impact on their role in the conference coming in as a victim's representative rather than just an agency as such." Participants deemed it appropriate for a firefighter to attend as a victim's representative even when they did not experience direct harm because of the offence. The capacity to attend as victim's representative was thus based on firefighters' experience in dealing with the consequences of fire rather than experience of harm caused because of the incident.

This study has found that firefighters attended conferencing in the capacity of a corporate/victim/victim's representative to communicate actual and potential harm caused. However, whether young people perceived firefighters as genuine victims, or corporate victims/victims' representatives, was not tested. The capacity of firefighters to effectively assume the role of a victim remains unknown. If young people do not perceive firefighters as victims, the utilisation of a firefighter as a victim may have iatrogenic outcomes. Investigation into young people's perceptions of firefighters in the context of conferencing is therefore necessary.

### **10.2.7. Firefighters have the capacity to communicate harm caused**

When harm caused is communicated to the young person, *censure of the act* can occur. According to the program theory, this censuring takes place when the offence causes *negative reactions of significant others*. Such negative reactions are likely to

emerge when the firefighter explains actual or potential harm caused. By denouncing the behaviour, rather than the young person, communication of harm caused has the capacity to instigate *acknowledgement of dominion impinged*, and thus *reintegrative shaming*.

Content analysis of interviews with program practitioners indicated that firefighters attended conferencing as corporate/victims/victims' representatives, and had the capacity to communicate harm caused. As one firefighter stated, "it was our role to attend as a victim. Each attendee, each victim, goes along, simply to explain how you were affected by it [the offence]". One convenor agreed that when a firefighter attended the incident caused by the young person, they portrayed a "more powerful message in terms of how they actually truly suffered". Given their direct experience with the consequences of the offence, local firefighters were best placed to portray harm caused. Content analysis of program practitioner interviews revealed that local firefighters attended the incident caused by the young person and were thus able to inform the young person about the actual consequences associated with their misuse of fire. The fire safety messages delivered by local firefighters were thus drawn from the personal experiences of the firefighter and were specific to the offence.

On the other hand, analysis of existing literature revealed that firefighters who attended conferences were not always involved in the incident caused by the young person. Analysis of conferencing records and interviews with program practitioners reiterated that, often, firefighters who attended conferencing did not attend the fire caused by the young person, and were therefore unable to provide a true representation of the actual harm caused by the offence. Instead, mechanisms such as fire and/or police reports, interviews with first arriving firefighters, and briefs provided by conference convenors were made available to program coordinators to enable them to contextualise

their general fire safety knowledge to the offence. This evidence indicates that local firefighters are not always employed, meaning the direct consequences of the offence could not always be portrayed first-hand. Instead, program coordinators attempted to contextualise general fire safety knowledge to the offence through the use of available documentation.

The capacity of firefighters to communicate harm caused was dependent upon whether they had attended the fire caused by the young person. If not, capacity to communicate harm caused was dependent upon available evidence used to contextualise general fire safety knowledge to the incident caused by the young person.

#### **10.2.8. Fire-specific outcome plan tasks tailor the intervention to the offence and reduce recidivism**

The theoretical construct underpinning conferencing for YMF is informed by the notion that the inclusion of fire-specific tasks within a young person's outcome plan will tailor the intervention to the offence and will reduce fire-related recidivism.

First, participation in conferencing is deemed an outcome in itself. The process of negotiating and agreeing upon outcome plan tasks is a form of *dialogic regulation* which utilises a *participatory community*. As a participant and fire safety expert, the firefighter endeavours to include fire-specific components within the young person's outcome plan. Quantitative analysis of Youth Justice Conferencing records indicated that there was a statistically significant association between firefighter involvement and the fire-specificity of outcome plan tasks. Fire-specific and appropriate outcome plan tasks were implemented more often when a firefighter was present and less often when a firefighter was absent. Firefighter involvement thus *particularises the intervention to the offence*.

These fire-specific components should facilitate the *re-enactment of dominion* in a way which enables the *restoration of property loss, damaged human relationships, community and/or the environment*. Quantitative analysis of records revealed that *restoration of property loss, damaged human relationships, community and/or the environment* was facilitated through the viewing of a fire safety video, the completion of a fire safety project, the writing of an apology letter to the fire service, listening to a fire safety talk, work experience with the fire service, attendance at a fire safety program, and/or clean-up operations.

To facilitate a reduction in recidivism, offender responsabilisation via *learning by direct experience* is required. This may occur when the punishing consequence of referral to conferencing is directly associated with YMF, requiring the young person to accept responsibility for their misuse of fire. The program theory defines this process as *negative punishment*, as conferencing requires the young person to relinquish some dominion to participate in the conference and to complete outcome plan tasks.

Participation in conferencing and completion of outcome plan tasks also facilitate censure of anti-social behaviour, which is a form of *positive punishment*, and reward the young person by diverting them from further state intervention, a form of *negative reinforcement*. Further, by accepting responsibility for their behaviour and experiencing remorse, a young person inflicts pain upon themselves, a form of *restorative punishment*, which is transformative. However, for associations between behaviour and its consequences to be made, the sanction must occur as soon as possible after the behaviour. Analysis of Youth Justice Conferencing records revealed a statistically significant difference in time between referral and participation in conferencing based on firefighter involvement. Further analysis indicated that time between referral and participation in conferencing was significantly longer when a firefighter was involved in



a conference. This timeframe exceeded that expected under the legislation. Firefighter involvement in conferencing may therefore prolong the planning and preparation phase of the conferencing process, reducing the likelihood a young person will associate their behaviour with its consequences.

Despite this limitation, the program theory suggests that engaging with fire-specific outcome plan tasks may reduce recidivism. This assumption is empirically supported by findings from the covariate analysis of recidivism data. Cox proportional hazards regression revealed that undertaking a fire-specific outcome plan with one fire-specific task (but not any one task in particular) predicted a reduction in risk of general recidivism. Based on these findings, fire-specific outcome plans with one fire-specific task have the capacity to contribute to a reduction in the risk of general recidivism. This finding provides empirical evidence in support of s8 YOR 2016 and suggests that conference participants should endeavour to include any one fire-specific outcome plan task tailored to the needs of the young person.

#### **10.2.9. Firefighter involvement facilitates a reduction in recidivism**

The program theorises that firefighter involvement in conferencing will facilitate a *reduction in recidivism*. This may be achieved through the promotion of deterrence. Firefighter presence may promote deterrence when the firefighter effectively communicates the actual or potential consequences of the young person's actions and this interaction manifests into acknowledgement of wrongdoing and subsequent remorse. Firefighters provide information pertaining to the consequences of the young person's actions. The ensuing discussion aims to denounce the behaviour within a culture of *respect*. Emotional responses in others may lead to an emotional reaction within the young person, instigating *vicarious conditioning*. This process aims to evoke

*remorse over injustice* in the offender, but also lead to *emotional restoration*, that is, shaming which is reintegrative. When shame becomes attached to YMF, the young person is held *accountable* for their behaviour and maintains a desire to *restore their sense of duty as a citizen*. Conferencing for YMF thus acts as a *catalyst for cognitive and behavioural change* which ultimately *prevents the likelihood of future injustice*.

Alternatively, or in conjunction to the above, firefighter presence may promote rehabilitation when firefighters are employed as an educative tool, assisting in restoring the offender back to their pro-social self. The program theory indicates that expression of disapproval of misuse of fire by firefighters and respected others is likely to invoke remorse in the person being shamed and condemnation of that behaviour by others. This reintegrative shaming generates *self-regulation*, the internalisation of pro-social standards. These pro-social standards set the benchmark for acceptable behaviour in regards to future use of fire. Pro-social standards are reinforced through the provision of *fire safety education* and fire-specific outcome plan tasks which aim to *advance fire knowledge* and *strengthen fire skills*. When conditions are conducive to YMF in the future, a young person will have the capacity to engage in *symbolic learning*, the ability to foresee potential consequences of one's actions and alter behaviour accordingly. The young person has thus been rehabilitated, back to their pro-social self or to a more advanced level of pro-social awareness.

Despite strong theoretical underpinnings, cox proportional hazards regression revealed that firefighter involvement was not a covariate (predictor) of risk of recidivism. Nevertheless, measures of association for firefighter involvement (bivariate analysis) revealed that, when a firefighter participated in conferencing, young people were more likely to receive a fire-specific outcome plan, view a fire safety video, and engage in a personal development task as a component of their outcome plan. These

findings suggest that the likelihood of a young person receiving a fire-specific outcome plan was contingent upon firefighter involvement in their conference. Firefighter involvement in conferencing is therefore important however, it only statistically impacts upon the efficacy of the program when it leads to the development of an outcome plan which contains one fire-specific task tailored to the needs of the young person.

### **10.3. (How) does this differ from Youth Justice Conferencing generally?**

Youth Justice Conferencing for YMF differs from Youth Justice Conferencing generally because: an interagency agreement governs program administration; firefighter inclusion is perceived as mandated; the role of the firefighter is unique and central; fire-specific components have been prescribed through mandatory inclusions in outcome plans; and recidivism is identified as a key performance indicator. These findings provide evidence to support the notion that Youth Justice Conferencing for YMF is a unique tertiary prevention program.

#### **10.3.1. Interagency agreement**

The purpose of the MoU is to document the roles and responsibilities of FRNSW and JJNSW in relation to firefighter involvement in Youth Justice Conferencing. The MoU was officially signed on 31<sup>st</sup> May 2006. The organisational network formed by this agreement was the main driving force behind conferencing for YMF and remains the main strength of the program. By utilising the framework of an existing juvenile justice mechanism in the form of Youth Justice Conferencing, both JJNSW and FRNSW can achieve their respective crime and fire prevention objectives whilst requiring few additional resources.

Content analysis of participant interviews revealed that interagency coordination between FRNSW and JJNSW was paramount to the development of the program. Participants believed the key objectives of the MoU were to: formalise the process for firefighter attendance at conferences; increase firefighter participation in conferencing; and improve firefighter awareness of conferencing principles, processes, and purposes. Further, all conference convenors interviewed referred to the MoU as a regulation which governed firefighter attendance. These convenors utilised the MoU to facilitate the administration of conferences without deviation. Similarly, two program coordinators stated that they utilised the MoU to administer firefighter participation in conferencing. These program coordinators also stated that they directed local firefighters to the MoU to inform them of their purpose and role within conferencing. However, interviews conducted with local firefighters, and one other program coordinator, revealed that the MoU was not utilised by these firefighters because they remained unaware of its existence. Thus, even though the MoU governed firefighter participation in conferencing, the agreement was not disseminated to all stakeholders, and was not utilised in all circumstances, as intended. Nevertheless, the MoU, and its intended utilisation, differentiates conferencing for YMF from conferencing generally by managing administration and implementation via interagency collaboration.

### **10.3.2. Inclusion of firefighters**

The utilisation of firefighters differentiates conferencing for YMF from conferencing generally. This statement is supported by Umbreit et al.'s (2007) notion that restorative justice programs can be differentiated by the stakeholders present. Conferencing for YMF is a unique program as conference convenors follow specific protocols during the planning, preparation, and implementation stages of conferencing

to facilitate the inclusion of firefighters. Content analysis of interviews conducted with conference convenors revealed that when young people committed a fire-related offence and were referred to conferencing, convenors engaged with the MoU, which governs firefighter attendance at conferences, and the *YOR 2010*, which states that an outcome plan for a fire-related offence must provide for the inclusion of fire-specific tasks. In fact, conference convenors maintained the perception that firefighter participation in conferences convened for young people who committed fire-related offences was mandated. Despite expressing some concerns that this mandated provision limited their discretionary powers and removed any need for reflective thinking about what the individual participant may bring to the conference, all convenors stated that they would seek to include a firefighter within such conferences even if not required.

This reliance on firefighters becomes problematic when resource limitations place constraints on the administration of conferencing. The program developer referred to the difficulties faced when developing and implementing conferencing with firefighter involvement. This participant attributed these difficulties to a lack of support or assistance provided by FRNSW. Conference convenors referred to constraints which arose due to limited FRNSW personnel. Program coordinators referred to budgetary constraints which impeded the provision of training and support for firefighters. Finally, local firefighters experienced the direct consequences of the constraints placed upon program coordinators. None of the firefighters felt prepared for the conference, none had heard of, or read, the MoU, and none were aware of the concept of restorative justice. Firefighters also identified a lack of support provided to them before, during, and after participation in conferencing. Although firefighters are the core mechanism that particularises conferencing to YMF and which differentiates the program from conferencing generally, their inclusion was impeded by resource constraints.

### **10.3.3. The role of the firefighter**

The MoU defines the firefighter as a participant, stating that the firefighter will work with other participants to make the young person aware of the impact of their actions on others, and will provide suitable input into discussions pertaining to the outcome plan, a component of which they may monitor. According to these terms, the capacity in which the firefighter attends conferencing is defined. However, evidence also indicates that the capacity in which firefighters attend conferencing is fluid.

Quantitative analysis of Youth Justice Conferencing records revealed that conference convenors explicitly recorded firefighter involvement only some of the time. When firefighter involvement was recorded, firefighters were defined as: an outside agency, respected community member, other contact/support, victim, social worker, or police officer. These findings suggest that convenors may have utilised their power of discretion to invite a firefighter to attend in whatever capacity best met the needs of each conference. Content analysis of program practitioner perspectives revealed similar findings. Two program practitioners defined firefighters as respected community members, three stated that firefighters attended in the role of a victim's representative, while one defined the firefighter as both a respected community member and victim's representative. In addition, four practitioners defined firefighters as agency representatives, while one stated that firefighters had no defined role. These findings indicate that firefighters are defined by stakeholder perception rather than role determination. This role fluidity differentiates conferencing for YMF from conferencing generally by specifically providing for the inclusion of firefighters without defining their role.

#### **10.3.4. Inclusions in outcome plans**

The main resource used by firefighters to facilitate the delivery of fire safety education was a video entitled '*The Consequences of Fire*'. Evidence derived from this study revealed that this video was viewed as a component of most young people's outcome plans. Analysis of Youth Justice Conferencing records showed a statistically significant association between firefighter involvement in conferencing and the viewing of a fire safety video by a young person as a component of their outcome plan. Further investigation revealed that the viewing of a fire safety video as a component of a young person's outcome plan occurred more often when a firefighter was involved in a conference, and less often when a firefighter was not involved in a conference.

Content analysis of program practitioner interviews similarly revealed that the fire safety video was heavily relied upon to communicate the consequences of fire to young people. In fact, program practitioners believed the showing of the video was a mandated component of a young person's outcome plan and there was generally not much discussion pertaining to its inclusion. Convenors expressed concern that the requirement for a young person to view a fire safety video as a component of their outcome plan removed power from participants in obtaining agreement on the outcome plan, albeit mitigated by the capacity to negotiate additional outcome plan tasks. Although convenors generally held positive perceptions about the educative function of the video, participants also expressed concern regarding the viewing of the video during, or immediately after, the conference. Convenors stated that this prolonged the conference, placed additional strain on participants, and impeded the effective delivery of the fire safety message.

### **10.3.5. Recidivism as a key performance indicator**

The MoU theorises that firefighter involvement in conferencing will reduce fire-related recidivism. Consequently, a reduction in recidivism was defined as a key performance indicator of the program. This is incongruous to restorative justice literature which emphasises the importance of evaluating conferencing against intangible objectives such as Braithwaite's (2002) constraining, maximising, and emergent standards. Nevertheless, because conferencing for YMF also aims to achieve fire prevention and risk reduction principles, recidivism remains an important measure of performance.

Recidivism analysis revealed that 67.4% of young people who participated in conferencing for YMF between 1 July 2006 and 30 June 2016 subsequently re-offended within the follow-up period. The majority (38.7%) of young people re-offended within the first 12 months post-conferencing. A further 15.9% re-offended within the second-year post-conferencing, while only 5.0% re-offended within the third-year post-conferencing. The risk of recidivism remained relatively stable for the fourth, fifth, sixth, and seventh years post-conferencing, and was negligible thereafter. These trends are typical of young offenders and of those who participate in Youth Justice Conferencing more broadly.

### **10.4. (How) does firefighter involvement influence the processes, outcomes, and impact of conferencing?**

Firefighter involvement influenced the processes, outcomes, and impact of conferencing. These findings provide evidence to support the notion that Youth Justice Conferencing for YMF exists as a unique tertiary prevention program that requires an evaluation which accounts for this distinctiveness.



### **10.4.1. Processes**

Firefighter involvement influences the processes of conferencing by facilitating an increase in the fire-specificity of the conference via the inclusion of: a firefighter as a participant; the provision of fire safety information within the conference; and the inclusion of fire safety related tasks within the outcome plan.

Conference proceedings in NSW are guided by a conference script which has been adopted as the standard by JJNSW. Generally, the proceedings involve: introduction, young person's statement, statements made by the victim/s, victim/s supporter/s, the young person's supporter/s, other participants, and the young person's response. The convenor must then explore options to resolve harm by asking for suggestions from the victim, young person, and other participants. This is followed by time out, the young person's presentation of the proposed outcome plan, negotiation of the outcome plan, identification of monitors and roles, signing of the plan, and the conclusion which includes refreshments. Although there is a set procedure for conferencing in NSW, the legislation vests the power of discretion within conference convenors to regulate procedure as deemed necessary. Conference convenors may utilise their power of discretion to amend procedures to provide for the inclusion of a firefighter, the provision of fire safety education, and firefighter involvement in discussions pertaining to the outcome plan.

Content analysis of program practitioner interviews revealed that the number and timing of contributions made by firefighters differed on a case-by-case basis. One convenor stated that firefighters only contributed to discussions pertaining to the outcome plan and the delivery of fire safety education as part of the outcome plan task. Two convenors stated that firefighters were allocated time to speak and were given the opportunity to comment throughout proceedings. The remaining convenor stated that

they “... leave the firefighter to make their comments after they’ve heard what everybody else has said” to ensure that discussions pertaining to the outcome plan were appropriate to the young person and the offence.

Analysis of existing literature indicated that conference duration should be determined by the needs of the conference participants, albeit constrained to under two hours. When interviewed, conference convenors consistently referred to prolonged duration of conferences when convened with a firefighter. The extended duration of the conference was thought to have caused restlessness and reduced the impact of the message portrayed by the firefighter. Further, time constraints meant that convenors could not always include adjournments within the conference, as required by legislation. Firefighter involvement thus prolonged the duration of the conference itself. The evidence indicates this caused restlessness, reduced the impact of the fire safety messages delivered, and impeded convenors in meeting their legislative obligations to include adjournments and conclude a conference in under two hours.

#### **10.4.2. Outcomes**

The MoU (2011) suggests that firefighter involvement will influence the outcomes of conferencing by facilitating changes in fire-related cognitions and behaviour, and a reduction in the rate, frequency and severity of fire-related recidivism.

The NSW Conference Outcomes Guidelines (JJNSW, 2010) state that participation in conferencing is an outcome in itself. The power to decide whether to participate in conferencing is vested in the young person. The program theory indicates that this power enhances *non-domination* and *empowerment*, whilst creating a *democratic process through which young people can create opportunities*. Further, by engaging with other participants and negotiating the terms of one’s outcome plan,

young people can restore *damaged human relationships* through a *consultative process* which gives them a voice and enables them to negotiate outcomes. Content analysis of program practitioner interviews revealed that conference convenors perceived conferencing as an outcome in itself.

#### **10.4.2.1. Fire-related cognitions**

One of the main tenets of the program theory is that YMF is the product of a lack of fire knowledge and poor fire safety skills. Offence specific intervention which facilitates the *advancement of fire knowledge* and *the improvement of fire safety skills* will therefore stimulate *adaptation*, altering YMF related cognitions and behaviours in young people. The participation of a firefighter facilitates the provision of fire safety education and fire-specific tasks within a young person's outcome plan. Firefighter participation therefore enables *access to knowledge and information* which *expands fire knowledge and strengthens fire skills*.

Further, the dissemination of fire safety information to all participants in the conference has the potential to address other factors associated with YMF, such as access to incendiary devices. By informing the young person and their community of care about strategies to improve fire safety around the home, participants are provided with access to information which may make YMF less likely to occur in the future. Content analysis of program practitioner interviews revealed that program coordinators delivered fire safety education to all participants rather than just the young person. Program coordinators stated that the provision of fire safety education to all participants was important because young people's misuse of fire was often attributed to their parents' behaviour. Program coordinators believed that conferencing presented an

opportunity to deliver general fire safety education to at-risk groups, to a “...captive audience we wouldn’t normally engage with.”

Finally, the program theorises that when young people are confronted with the harm they have caused and the emotional responses of others, they will experience an emotional reaction. By associating harm caused by the offence with the affective experiences of others (*vicarious conditioning*), the fire-related offence takes on evocative properties which can act as a catalyst for the emergence of *remorse*. Content analysis of program practitioner interviews indicated that, because of firefighter participation, young people could identify the actual and potential consequences associated with misuse of fire<sup>7</sup>. Fire safety education delivered by firefighters was believed to add weight to the seriousness of misuse of fire, “to their sense of seeing how serious the offence is, or could be.” When asked about the impact of firefighter presence, one convenor stated that “It definitely impacts the young person’s ability to express remorse.” Program coordinators agreed, stating that young people appeared to express remorse for their behaviour, that the “contrition was pretty obvious”. One program coordinator described conferences as “...very emotional things. Most of the kids were just so sorry for what they had done. A lot of them cried.”

The participation of a firefighter in conferencing has the potential to influence fire-related cognitions by facilitating: access to knowledge and information which has the potential to *expand fire knowledge and strengthen fire skills* in young people; the provision of fire safety education to enhance fire knowledge and skills in all conference participants; and the acceptance of *responsibility* and expression of *remorse* by young people for their behaviour and harm caused.

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<sup>7</sup> These findings are also supported by an original work which arose from this research project, published prior to submission of the thesis, but which were not reported in this thesis due to subsequent changes made to the methodology. For full text, see Pooley (2017a).

#### **10.4.2.2. Fire-related behaviour**

Conferencing for YMF has the potential to act as a catalyst for behavioural change. The program provides a *participative process through which young people take direct action and engender change*. This occurs because young people are empowered with fire-specific knowledge and skills, acquire an enhanced capacity to *anticipate the consequences of prospective misuse of fire*, and subsequently utilise this capacity to amend anticipated behaviour. This theory is, however, only applicable to young people who engage in YMF due to a lack of fire safety education. When YMF is malicious, psychopathological, or when it manifests from factors other than, or in addition to, a lack of fire safety education, conferencing for YMF is not sufficient to change behaviour. Given the scope of the program is to address YMF which manifests from normal developmental behaviour, conferencing for YMF may be sufficient.

In fact, interview participants deemed the provision of fire safety education sufficient to instigate behavioural change in young people whose misuse of fire manifested from normal developmental behaviour. One program coordinator specifically defined his role as “turning unsafe fire behaviour into safe fire behaviour”. However, fire safety education provided by these participants was perceived as insufficient when YMF manifested as a symptom of psychopathology. According to this evidence, conferencing for YMF is perceived as a suitable and sufficient intervention for instigating behavioural change in normal developmental YMF which manifests in isolation. This finding supports existing literature that suggests Youth Justice Conferencing is suitable for normal transitory behaviours, but is ineffectual when young people commit offences due to complex behavioural problems.

### **10.4.2.3. Fire-related recidivism**

If participation of a firefighter in conferencing influences fire-related cognitions and behaviours, conferencing for YMF should have the capacity to reduce fire-related recidivism. The young person's ability to alter their prospective behaviour based on the fire safety education they have received is dependent upon their motivation, belief in their ability to change their behaviour, access to resources, and environmental conditions conducive to behavioural change (Johnston, 2016). Conferencing for YMF may therefore not always manifest in reductions in recidivism. Nevertheless, recidivism measures do provide some insight into the influence firefighter involvement may have on young people with a history of misuse of fire.

Retrospective analysis of recidivism data revealed that most young people who re-offended did not commit a fire-related re-offence. Only 1.4% of the sample committed a fire-related re-offence as their first re-offence after participation in conferencing for YMF. Although conferencing for YMF may have reduced the likelihood of fire-related recidivism, this is not necessarily the case. In fact, existing literature suggests that fire-specific recidivism is low compared to general recidivism (Ducat et al., 2015; Lambie et al., 2009). In Lambie et al.'s (2009) 10-year follow-up of 200 young people referred to the NZ Fire Awareness and Intervention Program, fire-specific recidivism was low (2.0%). Similarly, in Ducat et al.'s (2015) 2.5 – 11 year follow-up of 1,052 persons over the age of 18 years convicted of arson in Victoria, fire-specific recidivism was low (5.3%). Existing literature suggests that this is because young people who commit fire-related offences are generally versatile offenders (Ducat et al., 2013a). In fact, retrospective analysis of recidivism data revealed that young people who re-offended after participation in conferencing for YMF committed an array of re-offences, from property offences (41.5%), offences against the person (15.6%),

summary offences (13.6%), drug or traffic offences (11.6% respectively), or other offences not otherwise classified (6.1%). Few fire-specific re-offences may thus reflect a low rate of fire-related recidivism generally and the likelihood that young people who engage in YMF are versatile offenders, rather than the capacity of conferencing for YMF to reduce fire-related recidivism.

Further, although covariate analysis indicated that fire-specific outcome plans statistically reduced the risk of recidivism, this finding was significant for all types of recidivism, not fire-related recidivism. Based on the findings derived from this study, it is possible to conclude that fewer young people committed an offence after participation in conferencing for YMF, but it is not possible to ascertain whether firefighter involvement in conferencing reduced the rate, frequency, or severity of fire-related recidivism.

### **10.4.3. Impact**

Finally, firefighter involvement influences the impact of conferencing at the organisational, systems, and community levels.

#### **10.4.3.1. Organisational level**

Theoretically, the MoU has an effect at the organisational level. Conferencing for YMF simultaneously enables the attainment of the crime prevention objectives of JJNSW and the fire prevention objectives of FRNSW. By utilising interagency collaboration and a pre-existing justice mechanism, both JJNSW and FRNSW have an enhanced capacity to facilitate the tertiary prevention of YMF. The program involves the use of an existing juvenile justice mechanism – Youth Justice Conferencing – which is tailored towards YMF through the participation of a firefighter, provision of fire

safety education, and inclusion of fire-specific components within the outcome plan. Conferencing for YMF thus requires few additional resources to operate, meaning it is viable, regardless of frequency of utilisation, and can be maintained through the continuation of interagency cooperation.

#### **10.4.3.2. Systems level**

Quantitative analysis of Youth Justice Conferencing records indicated that firefighter involvement in conferencing has an effect at the systems level. A statistically significant difference was observed in time between referral to conferencing and participation in conferencing based on firefighter involvement. When a firefighter was present, the time between referral of a young person to a conference and the facilitation of that conference was significantly longer than when a firefighter was absent. Content analysis of interviews with program practitioners provided further insight into these findings. Two conference convenors experienced difficulties in accessing local firefighters to invite them to participate. These convenors also expressed difficulties in managing conference proceedings around limited firefighter resources. These results suggest that firefighter involvement may prolong the planning and preparation phase of conferencing.

Firefighter involvement in conferencing is administered by the MoU. The agreement dictates the procedures through which firefighters are invited, attend, and contribute to conferencing. Although the MoU states that firefighters should participate in conferencing whenever possible, and that firefighter involvement is voluntary, program practitioners perceived firefighter participation as mandated. Conference convenors indicated that this mandated condition removed some of the discretionary power traditionally vested in them in deciding which participants to invite to a



conference on a case-by-case basis. Program practitioners also believed that mandated components within the outcome plan removed some of the power traditionally vested in conference participants to negotiate and reach agreement on outcome plan tasks. By facilitating firefighter attendance in conferencing, the interagency agreement appears to entrench power imbalances at the systems level, which in turn, has the potential to impede the attainment of restorative processes and outcomes.

Content analysis of program practitioner perspectives also revealed that, over the past 10 years, four program coordinators have participated in the clear majority of conferences. This occurred because program coordinators were employed by FRNSW to administer firefighter involvement in conferencing and these coordinators believed they had acquired an understanding of the principles and purposes of conferencing which far exceeded that of local firefighters. Coordinators thus believed that they were best placed to participate in conferencing. However, program practitioner perspectives revealed that program coordinators possessed a sense of authority associated with acquired experience. Further, program coordinators implemented a fire safety video as a component of most young people's outcome plan because this video had been employed in the past. Finally, program coordinators were relied upon to suggest suitable fire-specific outcome plan tasks because they were perceived as an authority. As 'quasi professionals', program coordinators had an effect at the systems level, which in turn, had the potential to impede the voluntary and collaborative nature of conferencing.

#### **10.4.3.3. Community level**

Conferencing for YMF also acts as a *risk mitigation* program which creates stronger communities by reducing the likelihood of YMF occurring in the community. Content analysis of program practitioner perspectives indicated that most participants

felt firefighter involvement in conferencing was effective. The program developer highlighted the importance of a whole-of-government approach towards YMF prevention. Conference convenors stated that firefighter involvement was “professional”, “competent”, and “very worthwhile”. All convenors stated that they would recommend firefighter involvement for all conferences convened for young people who commit fire-related offences. Program coordinators agreed that firefighter involvement in conferencing was worthwhile and recommended continuation of the program. Program coordinators believed that the worth of the program was immeasurable, not only for young people and conference participants, but for participating firefighters. All but one local firefighter agreed that firefighter involvement was worthwhile and that they would participate again in the future if requested. These firefighters felt like they had “a real role to play”. The remaining firefighter had a very negative experience. Although this participant stated that he did not think firefighter involvement was worthwhile, and that he would not participate again in the future, his negative experience may have been mitigated or avoided if adequate training and support had been provided.

Conferencing for YMF also had an effect at the community level by providing an avenue through which fire safety information could be disseminated to people not otherwise accessible to firefighters. As program coordinators specified, the purpose of firefighter involvement is not just to educate the young person, but all participants present at the conference. Enhancing community safety is a core objective of both FRNSW and JJNSW. By providing an avenue through which fire safety information can be disseminated to at-risk groups, conferencing for YMF has the capacity to improve fire safety knowledge and skills in young people who misuse fire and the people around them. The program thus enhances the capacity of JJNSW and FRNSW to promote

community safety, while improving the capacity of the community to be fire safe. In accordance with the program theory, conferencing for YMF is a process whereby *direct action reduces the risks associated with YMF*.

### **10.5. Does the practical application of the program align with what is theorised?**

Based on the evidence from this study, it appears that conferencing for YMF is not consistently implemented as intended. These findings have implications for the efficacy of Youth Justice Conferencing for YMF and highlight the areas in need of improvement.

The MoU (2011) states that one of the expected benefits of the interagency agreement is the development of a formal process for the request of firefighter attendance at conferences convened for young people who have committed a fire-related offence. However, this research revealed inconsistencies in the accessibility and availability of firefighters. Quantitative analysis of Youth Justice Conferencing records revealed that when a firefighter was involved in a conference, time between referral and participation was significantly longer than when a firefighter was not involved in a conference. Content analysis of program practitioner perspectives indicated that when program coordinators participated in conferencing, conference convenors found their availability difficult to manage. In addition, program coordinators recognised the impracticality of employing one trained firefighter to participate in conferences which were geographically dispersed throughout the state. These findings highlight the need to improve the availability of firefighters to ensure the processes formalised in the MoU practically facilitates firefighter attendance at conferences.

Another expected benefit of the MoU (2011) is the provision and promotion of consistent and contemporary fire safety information by firefighters. This research

revealed that the type of fire safety education delivered differed by firefighter. Program coordinators delivered general fire safety information to all conference attendants which was forward looking. Local firefighters delivered offence specific fire safety information to the young person which was backward looking. The fire safety information delivered was thus inconsistent across conferences. In addition, quantitative analysis of Youth Justice Conferencing records revealed that most young people watched a fire safety video as a component of their outcome plan. Content analysis of program practitioner perspectives highlighted that firefighters relied heavily on the fire safety video *'The Consequences of Fire'* to facilitate the delivery of fire safety education during the conference, or as a component of a young person's outcome plan. *'The Consequences of Fire'* was produced by the Fire and Emergency Services Authority of Western Australia in 2001. Although the video demonstrates the speed of fire spread and the potential consequences of YMF for both property and people, it was produced 15 years ago and has not been evaluated within the context of conferencing. The fire safety information delivered by the video is therefore not contemporary or empirically supported. Overall, the fire safety education delivered by firefighters is not consistent, and when reliant upon *'The Consequences of Fire'*, is not contemporary, providing evidence to suggest that the MoU is not implemented as intended.

The third expected benefit of the MoU is increased firefighter awareness of the principles and processes of conferencing. Content analysis of program practitioner interviews indicated that the preparation of firefighters for conferencing was lacking. The purpose of the development of the MoU was to inform firefighters about the principles and purposes of conferencing. Although conference convenors assumed firefighters were adequately trained and prepared for participation in conferencing, the MoU does not appear to have been implemented as intended. Program coordinators

maintained a good understanding of the principles and purposes of conferencing, and felt prepared for participation. This was reiterated by the non-punitive attitudes held by program coordinators, their perception that young people were good people, and that outcome plans should be constructive. However, program coordinator training was informal, conducted via on-the-job instruction and self-directed study. Although program coordinators believed they provided adequate training to local firefighters, local firefighters stated that they had received very little training or preparation prior to participation in conferencing. Local firefighters did not possess a good understanding of the principles and purposes of conferencing and felt under-prepared. This finding was reiterated by the punitive attitudes maintained by local firefighters and their perception that young people were bad people who should repay the victim's suffering. There was thus a clear disconnect between what the MoU intended would be provided, what conference convenors assumed was being undertaken, what program coordinators believed they were providing, and what firefighters received. Awareness of the principle and processes of conferencing was therefore not consistent, indicating that more comprehensive, up-to-date, formalised training is required for the MoU to be implemented as intended.

The MoU also lists the professional development of firefighters as an expected benefit of firefighter participation in conferencing. However, as stated above, firefighters did not receive any formal training. Professional development opportunities were thus limited to experience alone. When program coordinators participated in the clear majority of conferences themselves, professional development opportunities were limited to a small group of firefighters. For the MoU to be implemented as intended, all firefighters should be provided with access to training and the opportunity to participate.

Under s7.3 MoU (2011), firefighters are to be provided with guidelines which outline their attendance at conferences. Content analysis of program practitioner perspectives revealed that program coordinators believed they met this requirement by providing firefighters with access to information, such as the MoU and supplementary guidelines, prior to participation in conferencing. However, local firefighters stated that they received no such information, and were not aware of the MoU. These findings indicate that, in the circumstances described by these participants, relevant guidelines were not provided to firefighters and the MoU was not implemented as intended. This directly undermines the requirements of conferencing, as specified by JJNSW (2011).

The MoU states that attendance by firefighters is voluntary. However, all conference convenors referred to the MoU as a regulation which mandated firefighter attendance and all convenors utilised the MoU to facilitate the administration of such conferences without deviation. Two convenors stated that this mandated provision limited their discretionary powers and removed any need for reflective thinking about what individual participants may bring to conferencing. This evidence suggests that firefighter participation in conferencing is not perceived as voluntary. This not only undermines the intent of the MoU but the philosophy underpinning Youth Justice Conferencing.

The MoU asserts that participation in conferencing must be first offered to permanent firefighters who attended the incident, followed by retained firefighters who attended the incident, permanent firefighters attached to the station that attended the incident, or retained firefighters attached to the station that attended the incident. In the event the conference is to be convened in an area remote to where the incident occurred, firefighters attached to the stations in the immediate area will be invited to participate as above. Evidence derived from this study revealed that program coordinators participated

in the clear majority of conferences themselves because they maintained the perception that delegation to local firefighters was too risky based on their lack of awareness or understanding of the purposes and principles of conferencing. The intent of the MoU to provide mechanisms through which participatory community and communitarianism may be attained was not consistently implemented. This finding has implications for the restorative and reintegrative shaming potential of conferencing. While this is beyond the scope of the current project to consider, this should form a key focus of future research.

The perception that program coordinators were best placed to participate in conferencing due to their acquired experience and authorisation to negotiate outcome plan tasks proved problematic. Content analysis of program practitioner perspectives revealed that program coordinators acted like ‘quasi-professionals’, displaying a tendency towards the implementation of generic outcome plan tasks rather than those tailored towards the needs of each young person. Quantitative analysis of Youth Justice Conferencing records revealed evidence to support this premise. Statistical analysis highlighted that the viewing of a fire safety video occurred more often when a firefighter was present and less often when a firefighter was absent. Further, a statistically significant association was identified between firefighter involvement and other fire-specific outcome plan tasks, or those which did not fit into pre-existing categories and occurred infrequently. Such tasks were implemented more often when a firefighter was absent, and less often when a firefighter was present. These findings suggest that when a firefighter was involved in a conference, an outcome plan was more likely to contain the viewing of a fire safety video and less likely to contain unique fire-specific tasks. When a firefighter was absent, an outcome plan was less likely to contain the viewing of a fire safety video and more likely to contain unique fire-specific tasks. Even though firefighter involvement increased the fire-specificity of outcome plans, this

appears to have occurred due to the implementation of generic fire-specific tasks - the viewing of a fire safety video - rather than the implementation of fire-specific tasks which were specifically tailored towards the needs of the young person. The utilisation of 'quasi-professionals' thus appeared to undermine the voluntary and collaborative nature of conferencing, its restorative potential, and fire prevention objectives.

The MoU informs firefighters that they may wear either their duty or dress wear when attending a conference. Content analysis of program practitioner perspectives revealed that all participants noted a similarity between the firefighter dress wear uniform and police uniform. When queried on the impact of this similarity, several convenors stated that the benefit of having a firefighter attend in uniform was added formality which placed extra emphasis on the fire safety messages delivered. Analysis of existing literature revealed this to be a contentious concept. On the other hand, other participants implied that a firefighter in uniform may generate a power imbalance by arousing a sense of anti-authority in young people which may be detrimental to conference process and outcomes. Analysis of existing literature indicated that the presence of a uniformed officer in conferencing may arouse a sense of anti-authority in young people. Although the MoU is implemented as intended, the intention of the MoU in regards to firefighter uniform undermines restorativeness and may impede fire prevention objectives.

This study has revealed that conferencing for YMF is not consistently implemented as intended. This finding aligns with qualitative findings derived from an analysis of interview data collected from NSW-based magistrates (Richards et al., 2016). The analysis revealed that NSW magistrates maintained the perception that Youth Justice Conferencing in NSW had moved away from its intended aim and was



not applied consistently across the state (Richards et al., 2016, pg. 7). Results from this study suggest a similar phenomenon may be occurring in conferencing for YMF.

#### **10.6. (How) does Youth Justice Conferencing with firefighter involvement facilitate youth misuse of fire prevention?**

Despite not being implemented as intended in all respects, Youth Justice Conferencing with firefighter involvement has the potential to facilitate YMF prevention by enabling the provision of fire safety education within the conference and the inclusion of fire-specific tasks within the outcome plan. Quantitative analysis of Youth Justice Conferencing records and recidivism data revealed that firefighter involvement increased the likelihood a young person would receive an outcome plan which was fire-specific and appropriate, and that fire-specific outcome plans (containing one fire-specific task) reduced the risk of general recidivism. Interviews with program practitioners indicated that, when misuse of fire manifested from normal developmental behaviour, the program was perceived as effective in targeting the factors underlying the offence - a lack of fire safety education and poor fire safety skills. Participants who described misuse of fire as a manifestation of normal developmental behaviour believed the delivery of fire safety education in the context of conferencing had the capacity to change fire-related cognitions and behaviours in young people. However, those participants who described misuse of fire as a symptom of psychopathology maintained less positive perceptions of effectiveness. These findings indicate that the provision of fire safety education by firefighters in the context of conferencing was perceived by program practitioners as effective in targeting misuse of fire which manifested from normal developmental behaviour, while being insufficient when misuse of fire manifested as a symptom of psychopathology. Finally, interviews

conducted with program practitioners revealed that conferencing for YMF provided an avenue through which firefighters could disseminate fire safety education to at-risk and otherwise inaccessible groups, namely young people who misused fire and the people around them. Overall, these findings suggest that firefighter involvement in Youth Justice Conferencing enables the provision of fire safety education and inclusion of fire-specific outcome plan tasks to facilitate the prevention of normal developmental YMF by contributing to a reduction in the risk of general recidivism and providing an avenue through which fire safety information can be disseminated to young people who misuse fire and the people around them.

These findings have implications for Youth Justice Conferencing for YMF. The evidence presented herein provides support for the continuation of firefighter involvement in Youth Justice Conferencing convened for young people who commit fire-related offences. However, some factors have been identified which impede the efficacy of the program. These areas in need of improvement and recommendations for best practice are discussed in the proceeding chapter.

## **Chapter 11: Conclusion**

### **11.1. Introduction**

In January 2017, an updated Memorandum of Understanding was made available, having been developed and signed by FRNSW and JJNSW in November 2016. This MoU (2016) states that it supersedes any previous MoU. Given this study was retrospective in nature and evaluated the practical implications of the MoU in place between 2006 and 2016, this most recent MoU has not been considered within this analysis. However, a review of the updated MoU (2016) has revealed no changes which impact upon firefighter involvement, meaning the conclusions and recommendations derived from this study remain valid and applicable. This evidence indicates that firefighter involvement in Youth Justice Conferencing offers an avenue through which to contribute to a reduction in general recidivism whilst providing fire safety education to at-risk groups (section 11.2). However, some factors have been identified which impede the efficacy of the program. Recommendations for best practice have therefore been developed to improve the program's capacity to meet its benchmarks (section 11.3).

### **11.2. Summary**

The normal developmental manifestation of YMF occurs because of natural inquisitiveness in fire coupled with a lack of fire knowledge and poor fire safety skills. Fire safety education delivered by firefighters in the context of Youth Justice Conferencing has the capacity to address a lack of fire knowledge and poor fire safety skills. The program thus has the capacity to address normal developmental YMF which occurs in isolation.

Although the population of young people who commit fire-related offences and participate in conferencing is small, and conferencing for YMF has been used infrequently, the program is important. Firefighter involvement in conferencing increases the likelihood a young person will receive a fire-specific outcome plan. Fire-specific outcome plans containing one fire-specific task contribute to a reduction in the risk of general recidivism. Further, the program provides firefighters with access to young people and their support group, the victim(s) and their support group, and other members of the community, many of whom represent at-risk groups who are otherwise inaccessible to firefighters. Youth Justice Conferencing thus provides an avenue through which firefighters can disseminate fire safety education to at-risk groups to reduce the risk of, and consequences associated with, a young person's misuse of fire.

Firefighter involvement in Youth Justice Conferencing is deemed effective and its continued utilisation pertinent. Young people whose misuse of fire manifests from normal developmental interest in fire coupled with a lack of fire knowledge and poor fire safety skills have a criminogenic need that may be addressed by conferencing for YMF. All young people who possess this criminogenic need should be provided with the opportunity to participate in the program. It is thus recommended that the eligibility criteria for young people who can be referred to conferencing be determined by the manifestation of their YMF rather than the seriousness of their offence. This recommendation is supported by existing literature. Sherman and Strang (2007) conducted a review of international restorative justice research and concluded that restorative justice appears to reduce recidivism more effectively when employed for more serious offences. Richards et al. (2016) analysed findings from a national study that gathered data from semi-structured interviews with 12 Children's Court magistrates from NSW in 2010-2011. The analysis revealed that magistrates would like

conferencing to be extended to include more serious and violent offences. In a study of 199 cases registered for victim-offender mediation (VOM) in the Netherlands, Zebel, Schreurs, and Ufkes (2017) found that the offences for which victims and/or offenders seek to engage in VOM were, on average, more serious than the offences which occurred in the general population. This finding occurred irrespective of the age of the victims or offenders. Zebel et al. (2017) concluded that restorative justice processes, such as VOM, are sought by victims and/or offenders after serious offences.

Although an increase in scope to include more serious fire-related offences is supported by existing literature, conferencing for YMF should not be employed in isolation. As the literature suggests, fire safety education should form a part of all YMF prevention programs, but is not sufficient in and of itself to address all forms of YMF (Pinsonneault, Richardson & Pinsonneault, 2002). To address other criminogenic needs, conferencing for YMF can be implemented alongside other programs, as deemed necessary.

Although this study has empirically-derived an evidence-base which verifies the program, conferencing with firefighter involvement requires additional resources to operate as an effective YMF prevention program. Additional resources must be allocated to improve the administration and facilitation of the program. In a similar vein to that suggested by Richards et al. (2016), police and magistrates may be more likely to refer young people who have committed a fire-related offence to conferencing with firefighter involvement if the program is better resourced and implemented.

### **11.3. Recommendations**

This study has revealed areas in need of improvement for conferencing with firefighter involvement to facilitate YMF prevention. Eight recommendations have been

made based on these findings. These include: the development of a multi-agency memorandum of understanding; role fluidity for firefighters; the wearing of duty wear uniform; the type of firefighter who should participate in conferencing; the training of firefighters; the development of fire safety education plans and resources; the mitigation of power imbalances; and the inclusion of evaluative mechanisms.

### **11.3.1. The development of a multi-agency memorandum of understanding<sup>8</sup>**

A multi-agency memorandum of understanding between all combat agencies for fire and juvenile justice in each jurisdiction should be developed. In NSW, JJNSW maintain jurisdiction for juvenile justice, FRNSW maintain jurisdiction for fire in Fire Districts, while NSW Rural Fire Service (RFS) maintain jurisdiction for fire in Rural Fire Districts. An MoU between JJNSW, FRNSW, and NSW RFS would ensure that all young people in NSW who are referred to Youth Justice Conferencing for a fire-related offence are provided with the opportunity to participate in conferencing with a firefighter, regardless of the geographical area in which the offence is committed. It would also ensure that all firefighters in NSW who attend a fire caused by YMF are provided with the opportunity to participate in Youth Justice Conferencing as a stakeholder to the offence, regardless of the agency for which they work/volunteer. Finally, a multi-agency memorandum of understanding would provide conference convenors with a larger pool of firefighters from which to draw.

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<sup>8</sup> The development of a multi-agency memorandum of understanding is discussed in an original work derived from the research reported in this thesis, accepted for publication prior to submission of the thesis. For full-text, see Pooley (2017c).

### **11.3.2. Role fluidity**

Given the variability identified in the roles firefighters assume within conferencing, and to adhere to the principles of restorativeness, the MoU should emphasise the role fluidity of firefighters and their capacity to contribute to conferencing in multiple ways. Role fluidity aligns with the principles underpinning restorativeness which recognise that stakeholders of an offence are fluid and interchangeable. Further, role fluidity enables conference convenors to utilise their power of discretion to invite participants to attend conferencing in whatever capacity best facilitates an intended outcome. For example, when a fire-related offence is ‘victimless’, against the State, or the direct victim cannot attend, a firefighter can attend conferencing in the role of the victim. By attending as a victim, the firefighter can provide information as to the harm caused by the offence, whilst ensuring the conference maintains its victim-centred, and thus reintegrative and restorative approach. When a victim is present, a firefighter can attend conferencing in the role of a respected community member to facilitate the provision of fire safety education.

The MoU should inform firefighters that they may be instructed to attend conferencing in one, or a number, of capacities: as a secondary victim where they have been directly involved in the incident caused by the young person; as a corporate victim/victim’s representative when the fire service for which they work/volunteer attended the incident caused by the young person; as a respected member of the community who represents the interests of the community; and/or as a fire safety expert who can elucidate the actual and potential harm caused by the incident and provide general fire safety education to all participants. The firefighter may embody any or all of these roles to better facilitate the administration of the conference and the provision of fire safety education. Further, any fire safety messages delivered can be reiterated

through the undertaking of fire-specific outcome plan tasks, which may be monitored by the firefighter. The multiplicity of roles a firefighter can assume provides conference convenors with the power of discretion to utilise a firefighter in whatever role is deemed most appropriate on a case-by-case basis. This utilisation of discretion may mitigate the perceived lack of discretion some convenors experienced because of the regulations and policies governing firefighter attendance. Thus, even though firefighter attendance may be perceived as mandated, convenors can practice discretion in defining firefighters in whatever capacity best meets the needs of each conference.

### **11.3.3. Duty wear uniform**

When firefighters attend in the role of a victim, it is pertinent that they are perceived as such by the young person involved. This will ensure that the conference maintains its restorative, victim-centred approach, whilst also providing for portrayal of actual harm caused which has the capacity to arouse an emotional response in the young person. Alternatively, when firefighters attend in the role of a respected community member or fire safety expert, they must be respected by young people while being perceived as legitimate experts on fire safety. To realise these seemingly incongruous aims, firefighters should distinguish themselves as front line firefighters whilst differentiating themselves from police. To achieve this, firefighters should wear their work uniform (duty wear) rather than their dress uniform when attending conferences. Duty wear consists of dark blue shirt and pants with reflective trim and the fire service logo. If a young person observes a firefighter on the front-line or within the community generally, they will be familiar with the firefighter in their duty wear. Not only will this attire allow young people to recognise firefighters as familiar front line workers and legitimate fire safety experts, it will differentiate firefighters from police and potentially



mitigate any sense of anti-authority in young people. This simple mechanism may enhance the capacity of the firefighter to embody the status of a victim, increasing the likelihood the young person will associate harm caused with the affective experiences of the firefighter, experience remorse, and thus avoid similar behaviour in the future. It may simultaneously enhance the capacity of the firefighter to embody the status of a respected community member and/or expert, increasing the perceived legitimacy of the fire safety education delivered, while differentiating the firefighter from police and mitigating any sense of, and associated responses related to, anti-authority.

#### **11.3.4. Type of firefighter**

Preference should be given to local firefighters who have attended the incident caused by the young person. Local firefighters who attended the incident caused by the young person are best placed to communicate harm caused due to direct experiences in dealing with the consequences of the offence. Portrayal of actual harm caused by a firefighter directly affected by the offence will enhance the likelihood the young person will learn about the actual and potential consequences of their actions, accept responsibility for their behaviour, express remorse, and avoid repeating the behaviour again in the future. Further, the utilisation of local firefighters will improve availability so that conference planning is not constrained by restricted firefighter resources; conference processes are not constrained by inflexible timeframes; and the monitoring of outcome plan tasks can occur at a time appropriate for the young person. As stated previously, local firefighters should be drawn from the urban or rural fire service which attended the incident.

### **11.3.5. Training of firefighters**

To ensure urban and rural local firefighters are equipped with the tools to participate in conferencing effectively, training and support must be adequate and appropriate. Based on the evidence gathered in this study, training must extend beyond provision of access to the interagency agreement/program guidelines and a telephone discussion with a program coordinator and/or conference convenor. When program practitioners were asked if they could recommend any program modifications or improvements, participants stated that the following should be developed: a comprehensive, formal training package; standard operating procedures; structured provision of training and support; the up-skilling and utilisation of operational firefighters; and Working with Children Checks for all firefighters due to the possibility they may monitor a young person's outcome plan task.

It is therefore recommended that training include the provision of information about the purposes, processes, and principles of conferencing, placing an emphasis on the principles of restorative justice, and detailed information about the intended outcomes of the conference and the fire-specific tasks which may be appropriate to propose. The firefighter's level of knowledge should be checked prior to participation to ensure they have attained a minimum level of knowledge, can meet the expectations placed upon them, and are suitable for participation. An online module administered by both FRNSW and the NSWRFSS may be the most appropriate means through which to provide adequate and appropriate training and the checking of knowledge/expectations/suitability. This online module should also be made available to conference convenors so that they are aware of the level of training firefighters

receive, and thus what can be expected from them<sup>9</sup>. Further, support should be provided to firefighters via face-to-face and/or telephone contact with the program coordinator before, during, and after participation, to ensure questions can be answered and support can be provided as necessary. Referral to local peer support workers should be utilised where required. A Working with Children Check should also be obtained.

### **11.3.6. Fire safety education plans and resources**

The fire safety video *'The Consequences of Fire'* and any other videos used by firefighters in the context of conferencing or for the completion of outcome plan tasks should be empirically evaluated to determine their pedagogical value. The environment in which the video(s) are viewed and the time best suited for viewing should also be evaluated to ensure administration is not a product of firefighter convenience. Further, additional resources should be made available to firefighters to assist in the provision of fire safety education, as requested by conference convenors. This will give convenors and firefighters the option to select those resources most appropriate to the young person on a case-by-case basis. It is recommended that the fire safety education plans and resources used by firefighters align with CC-DRR best practice. After theoretical analysis of Youth Justice Conferencing for YMF as a CC-DRR mechanism, Pooley (2017b, p.10) found that

...findings derived from CC-DRR research may be used to inform the mode of delivery of fire safety education in conferencing to align this program with CC-

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<sup>9</sup> An online training package was made available to FRNSW firefighters in late 2016. This training package was not available prior to 30 June 2016, and was thus outside the scope of this study. Further, this training package is only available to FRNSW firefighters, and does not educate firefighters on the principles of restorative justice. Thus, it does not satisfy this recommendation.

DRR best practice. This is necessary as fire safety education delivered by firefighters, as well as the resources used, have not been evaluated in the context of conferencing. It is recommended that CC-DRR researchers partner with juvenile justice and fire agencies to develop evidence-based fire safety education plans and resources for use within conferencing. This advancement will also enable the development and implementation of in-built monitoring and evaluation mechanisms, as recommended by Towers et al. (2014), to determine the capacity of fire safety education delivered by firefighters in the context of conferencing to change fire-related cognitions and behaviours in young people.

### **11.3.7. The mitigation of power imbalances**

The program theorises that conferencing for YMF is a democratic, consultative, and participative process which ensures the non-domination and empowerment of young people. For program implementation to align with program theory, conference convenors should be vested with the power to utilise firefighters in whatever capacity they deem most appropriate for the circumstances of the conference. Further, conference participants should maintain their capacity to negotiate all outcome plan tasks while the young person and victim maintain the power of veto over any and all outcome plan tasks. Fire-specific tasks should be recommended and monitored by the firefighter where agreed upon. This may include the viewing of a fire safety video but should not, by default of convenience alone, dictate the inclusion of this video. The *YOR 2016* should be utilised as intended, a mechanism for the provision of offence specific outcome plan tasks which does not limit the inclusion of other tasks or the power of veto of the young person or victim. Further, when a firefighter attends conferencing as a victim, the power of veto should rest with the young person alone.

This will ensure that power imbalances and the mandate of the State do not override the young person's power of veto.

#### **11.3.8. The inclusion of evaluative mechanisms**

In-built monitoring and evaluation mechanisms are not evident within conferencing for YMF. For future utilisation to maintain, or improve, effectiveness and efficiency, evaluative procedures must be ingrained within program processes. This will ensure that program development or modification is based on evidence-based practice and practice-based evidence, and thus meets best practice guidelines. Evaluative mechanisms may be informed by the methodology employed within, and findings derived from, this research. This approach will enable the utilisation of evaluatory benchmarks; a statement of objectives and the operationalisation of these objectives; comparison between the intended implementation of the program and its actual implementation; and quantitative and qualitative analyses of program processes, outcomes, and impact.

### **11.4. Conclusion**

The findings presented in this thesis arose from the author's interpretation of the data. These findings revealed that firefighter involvement in Youth Justice Conferencing facilitated the prevention of normal developmental YMF by: including one fire-specific task within a young person's outcome plan to contribute to a reduction in the risk of general recidivism; and providing an avenue through which young people who misused fire and the people around them could gain access to fire safety education to reduce the risks and consequences associated with YMF. Although there are some areas in need of improvement, the implementation of the recommendations developed

from this empirical investigation will enhance the capacity of conferencing with firefighter involvement to facilitate YMF prevention. This study also highlighted that further empirical investigation of Youth Justice Conferencing with firefighter involvement is necessary. Despite the implementation of mechanisms to gain access to young people who participated in conferencing for a fire-related offence, ethical and time constraints meant that data could not be collected from this group for this project. Future research which draws upon young people's perspectives and experiences will prove invaluable in determining the influence firefighters have on young people who misuse fire and on the processes, outcomes, and impact of conferencing for YMF.

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# Appendices

## Appendix A

### **Memorandum of Understanding (2011)**



**Juvenile Justice**  
Attorney General & Justice

**FIRE & RESCUE NSW**



**MEMORANDUM OF UNDERSTANDING**

between

**Fire & Rescue New South Wales**

and

**Juvenile Justice, Department of Attorney General & Justice**

(Fire & Rescue NSW attendance at Juvenile Justice Youth Justice Conferences for fire related offences)

**Parties**

**COMMISSIONER OF FIRE & RESCUE NEW SOUTH WALES (FRNSW);** of Level 10, 227 Elizabeth Street, Sydney NSW 2000 and

**CHIEF EXECUTIVE OF JUVENILE JUSTICE, DEPARTMENT OF ATTORNEY GENERAL & JUSTICE** of 477 Pitt St Sydney NSW 2000 (the Chief-Executive)

## 1. INTRODUCTION

The Commissioner is a representative of the Crown in the State of New South Wales and is responsible for enhancing community safety, quality of life and confidence by educating people about the impact of fire hazards and emergency incidents on the people, environment and economy of NSW.

The Chief Executive is a representative of the Crown in the State of New South Wales and is responsible for the administration of youth justice conferences so as to promote acceptance of responsibility by the young person concerned and an understanding of the impact of their actions, and determine an appropriate outcome plan towards these ends, as specified by s. 34 of the Young Offenders Act 1997 (NSW).

The parties wish to establish a framework to manage attendance of FRNSW firefighters at Juvenile Justice Youth Justice Conferences for fire-related offences.

The following is a record of the matters agreed to between the parties and supersedes all prior correspondence and negotiations between the parties in this matter on this issue.

This document is not intended by the parties to create legally binding obligations.

## 2. DEFINITIONS

The following definitions apply in the context of this Memorandum only:

*Chief Executive* means the person holding office or acting as the Chief-Executive of Juvenile Justice, as specified in s. 3 of the *Children (Detention Centres) Act 1987* (NSW).

*Commissioner* means the person holding office or acting as the Commissioner of the FRNSW as specified in s. 3 of the *Fire Brigades Act 1989* (NSW).

*Guidelines* means the FRNSW Guidelines for Attendance at Youth Justice Conferences.

*Memorandum* means this memorandum of understanding (including any schedules and attachments).

*FRNSW* means Fire & Rescue New South Wales.

*Outcome plan* means an outcome plan as determined by consensus by the participants in the youth justice conference under s. 52 of the *Young Offenders Act 1997*(NSW).

*Victim* means a person who suffered harm as a direct result of an act committed, or apparently committed, by a child in the course of a criminal offence, as specified in s. 5 of the *Young Offenders Act 1997*(NSW).



*Youth justice conference* means a youth justice conference convened or proposed to be convened under Part 5 of the *Young Offenders Act 1997*(NSW).

### **3. COMMENCEMENT AND TERM OF THE MEMORANDUM**

- 3.1 This Memorandum commences on the date that it is signed by both of the parties, unless otherwise agreed by the parties in writing.
- 3.2 The term of this Memorandum is for a period of three years from the date that it is signed by both of the parties, unless terminated earlier in accordance with clause 13. If both parties agree to extend the term, any such extension must be recorded in writing and signed by the parties prior to the last day of the original term.

### **4. REPRESENTATIVES**

- 4.1 The Commissioner's representative for the purpose of the operation of this Memorandum is identified in Schedule 3 (Item 1).
- 4.2 The Chief Executive's representative for the purpose of the operation of this Memorandum is identified in Schedule 3 (Item 2).

### **5. KEY OBJECTIVES OF THIS MEMORANDUM**

- 5.1 The key objective of this Memorandum is to document the roles and responsibilities of the parties in relation to the attendance of FRNSW firefighters at youth justice conferences, specifically:
- The provision of notification by Juvenile Justice to the FRNSW of upcoming Youth Justice Conferences (YJC) where FRNSW attendance is required due to the offence being fire related; and
  - The provision, whenever possible, by the FRNSW of a firefighter to attend each YJC for fire related offences. The firefighter will provide input to assist in the production of a suitable workable and consistent section of the outcome plan.
- 5.2 This document:
- Outlines the general conditions of the Memorandum between the two agencies;
  - Describes the protocols governing the notification process; and
  - Describes the required role and responsibilities of the FRNSW firefighter at a YJC conference.

## **6. EXPECTED BENEFITS**

- 6.1 Close cooperation between the two agencies will result in many benefits for each agency and the community in general. Among these are:
- A formal process for the request of FRNSW attendance at appropriate youth justice conferences;
  - Increased instances of the FRNSW attending youth justice conferences;
  - Provision and promotion of consistent and contemporary fire safety information by the FRNSW as part of each youth justice conference it attends and the resultant outcome plan;
  - Increased firefighter awareness of youth justice conferencing principles and processes, and benefits to the community;
  - Potential professional development opportunity to firefighters of the FRNSW through participating in the conference process;
  - Increased community safety through the dissemination of contemporary fire safety information at youth justice conferences;
  - Provision of age and offence specific fire safety advice and education being to the 'young person' and their family; and
  - Potential benefit to the community through reducing the likelihood of reoffending by a 'young person' who has engaged with a firefighter at a youth justice conference and received information about the potential consequences of their fire lighting.

## **7. GENERAL – NOTIFICATION PROCESS**

- 7.1 The responsible Juvenile Justice Area Manager will ensure that adequate notice is provided to the FRNSW of any upcoming youth justice conference where the offence involved is fire related;
- 7.2 The FRNSW will endeavour to provide a firefighter to attend each such youth justice conference and notify the local area office of the name of the relevant firefighter;
- 7.3 The nominated FRNSW firefighter will be provided with FRNSW approved attendance guidelines and will then make contact with the local area office within 7 days to confirm their attendance and to provide the office with their direct contact details;
- 7.4 The local Assistant Manager (YJC) will formally invite the FRNSW to attend each such conference as a participant; and
- 7.5 The Conference Convenor appointed by the Assistant Manager (YJC) to prepare and facilitate the youth justice conference will then contact the nominated firefighter and if required, meet with them at least once to prepare them for the conference.

## **8. GENERAL – ATTENDANCE**

- 8.1 The nominated FRNSW firefighter will on the agreed date and time, attend and participate in the youth justice conference;
- 8.2 The FRNSW firefighter will work with all other agencies and individuals participating in the youth justice conference towards making the young person aware of the impact of their actions on others;
- 8.3 The FRNSW firefighter will provide suitable input at the youth justice conference about the consequences of fire, and where appropriate, include a fire safety related task for the young person to complete as part of the outcome plan;
- 8.4 The FRNSW firefighter may agree to act as a monitor for relevant parts of the outcome plan agreed to at the youth justice conference;
- 8.5 The FRNSW firefighter will at all times comply with the directions of the Conference Convenor and will maintain the confidentiality of the youth justice conference;
- 8.6 The FRNSW firefighter will comply with privacy requirements relating to youth justice conferences and if required will provide feedback to the Assistant Manager (YJC) and the Community Safety Coordinator, Behavioural and Social Analysis;
- 8.7 FRNSW Guidelines for attendance at Youth Justice Conferences are referred to in [Schedule 1](#);
- 8.8 The FRNSW role at Juvenile Justice, Youth Justice Conferences is referred to in [Schedule 2](#).

## **9. GENERAL – OUTCOME PLAN**

- 9.1 The FRNSW will endeavour to include a fire safety related task as part of the outcome plan agreed to by all participants; and
- 9.2 The FRNSW firefighter who agrees to monitor any fire safety or similar related tasks for the young person agreed to at the conference will report back to the Assistant Manager (YJC) on any agreed review dates about the young person's progress in completion of these tasks.

## **10. CONSULTATION - MAINTENANCE OF THE MEMORANDUM**

- 10.1 The parties agree to liaise and consult with each other in relation to the provisions contained within this Memorandum, at twelve monthly intervals and as needed during the term of this Memorandum. The FRNSW Community Safety Coordinator, Behavioural and Social Analysis and Manager, YJC Operations will arrange these meetings. This agreement will be reviewed as part of these meetings.
- 10.2 The FRNSW and Juvenile Justice, Department of Attorney General & Justice agree to monitor compliance with this Memorandum.

## **11. DISPUTE RESOLUTION**

11.1 Any disputes arising over the implementation of this Memorandum should as far as possible be resolved by consultation at a local level, for example between the FRNSW Community Safety Coordinator, Behavioural and Social Analysis and the Area Manager.

11.2 If unable to be resolved at local level, the issue should be referred to the FRNSW's Manager, Community Engagement and Development Unit, and the Juvenile Justice's Manager, Operations Unit for resolution.

If any dispute arises between the parties that cannot be resolved between the parties' authorised delegates, such dispute is to be resolved by consultation between the parties and if such dispute remains unresolved for a period exceeding three months the dispute is to be referred to the Ministers responsible for each portfolio for resolution in accordance with any Premier's Guidelines issued from time to time in respect of the settlement of disputes between State Government Agencies.

## **12. VARIATIONS**

Any variations to this Memorandum must be agreed, recorded in writing and signed by both parties. Any variations that are not so documented and signed will have no effect.

## **13. TERMINATION**

Should a party wish to terminate this Memorandum before expiry of the term, it must provide the other party with three month's written notice of its intention to terminate and the reasons for such termination. If the other party does not wish to terminate the Memorandum, the parties agree to use reasonable endeavours during the three-month notice period to negotiate the continuation of the Memorandum. If the parties are unable to agree to the continuation of the Memorandum or if the other party agrees to termination, the Memorandum will terminate at the end of the three-month notice period.

**SIGNATURES PAGE**

This Memorandum is signed and dated as an agreement by the parties:

Signed by  
Greg Mullins AFSM  
Commissioner of Fire & Rescue NSW  
in the presence of:

*Mick Olerenshaw*  
.....  
Witness  
*[Signature]*  
.....

*[Signature]*  
.....  
Commissioner

Print name of witness

*30 May 2011*  
.....

Date

Signed by  
John Hubby  
Chief Executive Juvenile Justice, Department of Attorney General & Justice  
in the presence of

*[Signature]*  
.....  
Witness

*[Signature]*  
.....  
Chief Executive

*Rob McNeil*  
.....  
Print name of witness

*30 May 2011*  
.....

Date

## **SCHEDULE 1 – FRNSW GUIDELINES FOR ATTENDANCE AT YOUTH JUSTICE CONFERENCES**

### **INTRODUCTION**

The *Young Offenders Act 1997 (YOA)* establishes procedures for dealing with young people who commit certain offences through the use of youth justice conferences, cautions and warnings instead of court hearings.

Under the YOA, Court should be used as a last resort, and only for those (alleged) young offenders who are not entitled or ineligible to be dealt with by way of warning, caution, or youth justice conference under the YOA.

The rationale behind youth justice conferencing is that when a young person offends they cause hurt, loss or damage to members of the community. At a conference the young offender and members of their community meet to help the young person take steps towards repairing the harm they have caused and taking responsibility for their actions.

Youth justice conferences bring the offender(s), their family and supporters together, face to face, with the victim(s) and their support people. Together they agree on a suitable outcome which they have developed among themselves, designed to repair harm to the victim(s) and to link the young person back into the community.

### **When may a conference be held?**

- If the offence is covered by the YOA, and
- The young person has admitted to the offence and agreed to participate, and
- A warning or caution is not appropriate because of the seriousness of the offence, degree of violence, harm caused to the victim or the offender's criminal history.

### **Who makes the decision to hold a conference?**

- NSW Police – Specialist Youth Officers, or
- Office of the Director of Public Prosecutions, or
- The Children's Court or District Court

### **Who may attend a conference?**

- The young offender
- The victim or their representative
- The conference convenor

- An adult responsible for the young offender and someone of the young person's choice
- Members of the offender's family and/or support network, including extended family
- Family/support group of the victim
- The investigating police officer and specialist youth officer
- An Australian legal practitioner advising the young offender
- A trainee police officer
- A cultural adviser or developmental specialist, if appropriate
- A supervising officer if the young person is under a court order
- If the young offenders attends school, a representative from that school
- An approved observer

#### **What happens at a conference?**

1. The convenor asks those present to introduce themselves and explain their relationship to the offence
2. The young offender tells the story of what happened. The convenor, using questions to the young person, makes sure the full picture of the event is revealed to the group.
3. The convenor asks the victim/s to tell the young person how they have been affected by the incident.
4. The convenor invites other participants to tell about their thoughts on the event and the impact of the offence.
5. The convenor asks the victim what they would like the young person to do to repair some of the harm they have caused. The young person and other participants also suggest possible ideas for suitable outcome plan tasks. The young person and their family and support people are then given time alone to decide on an appropriate proposal for an outcome plan.
6. The victim/s and supporters respond to the proposed plan of action for the young person and together everyone in the conference talks about what should happen and how it can happen. The final agreement is written into the outcome plan. Both the young person and any victim who is present at the conference must agree to the outcome plan.
7. The group nominates conference participant/s to monitor the young person and provide support to make sure that they are given the best chance to meet their agreement.
8. The conference finishes with refreshments and the signing of the outcome plan.

The conferencing process takes anywhere from one and a half to two hours depending on the number of participants.

## **SCHEDULE 2 – THE FRNSW ROLE AT JUVENILE JUSTICE, YOUTH JUSTICE CONFERENCES**

The Supplementary Guidelines to the YOA require a representative from the FRNSW to be invited as a participant to each conference convened for a fire related offence.

As described in the Memorandum of Understanding (Memorandum) between the FRNSW and Juvenile Justice, Department of Attorney General & Justice, the request for and attendance of a FRNSW firefighter at a conference is coordinated centrally by the FRNSW Community Safety Coordinator, Behavioural and Social Analysis.

The FRNSW Community Safety Coordinator, Behavioural and Social Analysis is advised by local Assistant Managers (YJC) of requests for attendance and coordinates the allocation of FRNSW firefighters to attend and liaises with relevant FRNSW Zone Commanders and Duty Commanders.

The FRNSW Community Safety Coordinator, Behavioural and Social Analysis will provide nominated firefighters with a brief as to the roles, responsibilities and requirements when representing FRNSW as a participant in a conference (YJC).

**Please note:** Attendance at conferences by FRNSW firefighters is voluntary. Any payment associated with that attendance must first be approved by the relevant Duty and/or Zone Commander.

Participation in the youth justice conference will be first offered to Permanent firefighters who attended the incident. In the event that no Permanent firefighters who attended the incident can participate, the offer will be extended to Retained firefighters who attended the incident. In the event that no Permanent or Retained firefighters who attended the incident can participate, Permanent firefighters attached to the Station that attended the incident will be invited to participate. If they decline, Retained firefighters attached to the Station that attended the incident will be invited.

In the event that the conference is held at a location remote from where the incident occurred, firefighters attached to Stations in the immediate area will be invited to participate according to the above-mentioned protocol.

On being nominated by the FRNSW Community Safety Coordinator, Behavioural and Social Analysis, and agreeing to attend, the FRNSW firefighter will make



contact with the relevant local YJC office within five working days to confirm their attendance and to provide the office with their direct contact details.

The local Assistant Manager (YJC) will formally invite the FRNSW firefighter to attend the conference.

The FRNSW firefighter will be attending the conference in the role of a participant where the offence is fire related and the Brigade may have attended the call.

The Conference Convenor appointed by the local Assistant Manager (YJC) to prepare and facilitate the conference will then contact the nominated firefighter and meet with them at least once prior to the conference to prepare them.

Convenors are appointed from their local community to prepare and facilitate conferences as a community based negotiated response to offending involving all affected parties.

An Outcome Plan is agreed at the conference. This Outcome Plan contains tasks to be undertaken by the young offender and designed to repair the harm caused by the offence and (re)integrate the young person into the community.

Conferences can be held during or after business hours, and are not limited to Monday to Friday. The time and place is ultimately decided by the convenor after consultation with all relevant participants. They are held at various Metropolitan and Regional locations, depending on availability and suitability. They cannot be held in a Juvenile Justice office, a court, or a police station.

The lead time from invitation to the actual conference is usually 2-3 weeks, during which time the convenor will prepare all potential participants. This time also allows the FRNSW firefighter sufficient time to arrange any necessary resources for the conference.

The FRNSW firefighter will be given the opportunity by the convenor to talk about the actual and potential consequences of the young person's actions. This can include discussion of the FRNSW response from the time the call was received, through to actual fire fighting operations and all the associated risks.

The FRNSW firefighter will also be invited to contribute suitable suggestions as part of the outcome plan for the conference. Each outcome task is allocated a Start and Finish Date.

As part of the outcome plan the FRNSW firefighter may then be asked to act as the monitor of this task and would be required to advise the Assistant Manager (YJC) if the task allocated to the young person has been completed satisfactorily and by the finish date.

Like all other participants, FRNSW firefighters participating in a conference are under a legal obligation to respect the confidentiality of youth justice conferences by not disclosing or discussing sensitive issues or identifying matters raised, outside the conference and by securely storing associated paperwork.

**What to wear at a Conference.**

Attending firefighters should wear either the FRNSW work or dress uniform when attending a conference.

**Recording the activity on the Community Activity Reporting System (CARS) database**

The FRNSW firefighter who attended the conference is to complete a CARS report using the specific YJC activity type.

**Further Information**

For all enquiries about Youth Justice Conferences please contact the Community Safety Coordinator, Behavioural and Social Analysis at the Community Safety Directorate, Greenacre on (02) 9742 7408 or mobile 0418 463 010.

### **SCHEDULE 3- PARTY REPRESENTATIVES (CLAUSE 4)**

#### **Representatives:**

##### **Item 1:**

(representative of the Commissioner)

##### **Fire & Rescue NSW**

Community Safety Coordinator, Behavioural and Social Analysis  
Amarina Avenue, Greenacre  
Locked Bag 12, Greenacre NSW 2190  
Email: CEDU.FRNSW@fire.nsw.gov.au  
Telephone: 02 9742 7408

##### **Item 2:**

(representative of the Chief Executive Juvenile Justice)

##### **Juvenile Justice**

Manager, Operations Unit  
Level 24, 477 Pitt St Sydney NSW  
Telephone: 02 9219 9545

## Appendix B

### **Interview Schedule for Program Developers**

“The aim of this interview is to collect information about how you perceive firefighter involvement in Youth Justice Conferencing and whether firefighter involvement influences the processes, outcomes, and impact of Youth Justice Conferencing.

Please answer each question in as much detail as you can. If you do not understand a question or need clarification, please ask me. If you do not wish to answer a question, you do not have to. You are free to withdraw from the interview at any time.

Just a reminder that all information you provide will remain confidential and identifiable data will not be published. No one will be able to identify you from your responses.”

1. With which agency did you work, and which position did you hold, during the development of the Memorandum of Understanding between Juvenile Justice NSW and Fire and Rescue NSW?
2. a. Were you personally involved in the development and/or implementation of this Memorandum of Understanding?  
b. If so, what did this involvement entail?
3. Why was the interagency agreement/program conceived?
4. From which organisation or individual did the idea for firefighter involvement in Conferencing arise?
5. a. What was the intended purpose of firefighter involvement in Conferencing?  
b. Do you believe this purpose was/is obtained?

6. a. Was consideration given to any specific restorative principles?
  - b. If so, which ones and how does the agreement theorise that firefighter involvement will facilitate the attainment of these?
7. a. Was/is the role of the firefighter prescribed?
  - b. If so, as what and why?
8. Were there any difficulties faced during and/or after the implementation of the program?
9. Was/is the program implemented as intended?
10. a. Was it deemed necessary to train firefighters before participation in Conferencing?
  - b. If so, was a training package developed and implemented?
  - c. If so, what does/did this training involve?
11. Are firefighters instructed to follow a script or utilise prescribed resources?
  - a. If so, what and why?
12. Has firefighter involvement in Conferencing been evaluated?
13. Is there any other information that you feel is relevant to understanding or evaluating firefighter involvement in Conferencing?

“Thank you. That is the end of the interview. If you consent to the use of your responses within my research, you will not be able to withdraw from the research after this time. Do you understand? Do you consent to the use of your responses within the research?

Do you have any final questions or comments?

Thank you for your time.”

## Interview Schedule for Conference Convenors

“The aim of this interview is to collect information about how you perceive firefighter involvement in Youth Justice Conferencing and whether firefighter involvement influences the processes, outcomes, and impact of Youth Justice Conferencing.

Please answer each question in as much detail as you can. If you do not understand a question or need clarification, please ask me. If you do not wish to answer a question, you do not have to. You are free to withdraw from the interview at any time.

Just a reminder that all information you provide will remain confidential and identifiable data will not be published. No one will be able to identify you from your responses.”

1. For how many years have you been a conference convenor in NSW?
2. In which region/s have you worked?
3. How many conferences have you convened for young people who have committed a fire-related offence?
4. How many of these conferences included a firefighter as a participant?
5. In what capacity have firefighters attended conferences convened by you?  
(For example: As a victim, victim’s representative, respected member of the community, other).
6. How did you record the firefighter’s participation in your reporting system?
7. What factors do you consider when determining whether to include a firefighter in Conferencing?

From your perspective:

8. What is the purpose of firefighter involvement in Conferencing?
9. What do you expect from firefighters during Conferencing?
10. Do firefighters meet these expectations? Why/why not?
11. Is the content delivered by firefighters consistent across conferences (i.e. Does the firefighter use a script)?
12. Do firefighters wear their uniform? If so, do you think this has an impact on participants?
13. Do any of the following differ according to firefighter involvement and if so, how?
  - a. the format of the conference
  - b. the willingness of attendants to participate
  - c. expressions of remorse by the young offender
  - d. expressions of forgiveness by the victim/victim's representative
  - e. the likelihood of reaching agreement on an outcome plan
  - f. the overall effectiveness of the conference
14. What differences have you observed between conferences convened with a firefighter and without a firefighter?
15. Would you recommend firefighter involvement in all Youth Justice Conferences convened for young people who commit fire-related offences? Why/why not?
16. In what capacity would you recommend firefighters attend Conferencing? (For example: As a victim, victim's representative, respected member of the community, other).
17. Do you have any other comments about firefighter participation in Youth Justice Conferencing?

“Thank you. That is the end of the interview. If you consent to the use of your responses within my research, you will not be able to withdraw from the research after this time. Do you understand? Do you consent to the use of your responses within the research?”

Do you have any final questions or comments?

Thank you for your time.”



## Interview Schedule for Firefighters

“The aim of this interview is to collect information about how you perceive firefighter involvement in Youth Justice Conferencing and whether firefighter involvement influences the processes, outcomes, and impact of Youth Justice Conferencing.

Please answer each question in as much detail as you can. If you do not understand a question or need clarification, please ask me. If you do not wish to answer a question, you do not have to. You are free to withdraw from the interview at any time.

Just a reminder that all information you provide will remain confidential and identifiable data will not be published. No one will be able to identify you from your responses.”

1. For which fire agency do you work?
2. In what capacity do you work for this agency?
3. For how long have you worked for this agency?
4. a. Have you attended a Youth Justice Conference convened for a young person who has committed a fire-related offence?  
b. If so, how many conferences have you attended?
5. In what capacity did you attend this/these conferences? For example, were you the victim, a member of the community, or a representative of an agency?
6. a. Were you directly involved in suppressing the fire caused by the young person?  
b. If not, how are you related to the incident/young person?
7. Who invited you to attend the conference/s?

8. What information/training were you provided with?
9. a. Were you aware there was a MoU between Juvenile Justice NSW and Fire and Rescue NSW?
  - b. Did you read this MoU before the conference?
10. Did you feel prepared for the conference?
11. a. At the time of the conference, had you heard of the concept Restorative Justice?
  - b. If so, could you briefly explain what Restorative Justice refers to?
12. a. Did you contribute to discussions throughout the conference?
  - b. If so, briefly describe what you said.
13. Did you use a script?
14. a. Did you contribute to discussions pertaining to the outcome plan?
  - b. If so, briefly describe what you said.
15. a. Did you monitor a component of the outcome plan?
  - b. If so, which task/s and how?
16. a. Did you wear your uniform?
  - b. If so, which uniform?
17. What resources did you use?

From your perspective:

18. Do you think your presence had an impact on the young person?
19. Did the young person express remorse?
20. Did the other participants express forgiveness for the young person?
21. What is the purpose of inviting a firefighter to conferencing?

22. Do you think this purpose was obtained?

23. Would you recommend firefighter participation in all conferences convened for a young person who has committed a fire-related offence?

24. Would you be happy to participate again in the future? Why?

25. Do you have any other comments or suggestions?

“Thank you. That is the end of the interview. If you consent to the use of your responses within my research, you will not be able to withdraw from the research after this time.

Do you understand? Do you consent to the use of your responses within the research?

Do you have any final questions or comments?

Thank you for your time.”