

## **Finding Common Ground in Restorative Justice: Transforming Our Juvenile Justice Systems**

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## Introduction

In the deeply divided society of the early twenty first century it seems that there are few issues on which Americans can agree. The need for reform of the United States juvenile justice systems, however, is one concern that resonates across ideologies.<sup>1</sup> Experts and advocates may identify different flaws in the current system and may disagree about the factors that motivate their critiques. Yet they find common ground on the necessity for change<sup>2</sup> and the benefits of restorative justice in improving those systems.<sup>3</sup> The support that restorative justice approaches have garnered across social and political spectrums may be explained by their concrete successes. When restorative justice is employed with fidelity it leads to a reduction in both crime and governmental costs, an increase in restitution to victims, and high rates of satisfaction by victims and offenders alike.<sup>4</sup>

The adoption of restorative justice practices represents a paradigmatic shift in our conception of juvenile justice. The restorative justice model focuses on the responsibility of young people to repair the damage that their misbehavior has caused, so that the needs of victims are satisfied and the community itself becomes safer.<sup>5</sup> Restorative justice is a different approach to “doing justice,”<sup>6</sup> bringing together those most affected by a youth’s offense in order to craft a plan to “make things right” for the victim, hold the offender accountable, identify and address the reasons for

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<sup>1</sup> Ctr. for Children's Law & Pol’y, *Potential for Change: Public Attitudes and Policy Preferences for Juvenile Justice Systems Reform (Executive Summary)*, MODELS FOR CHANGE 11 (2007), <https://www.macfound.org/media/files/CCLPPOLLINGFINAL.PDF>.

<sup>2</sup> Tina Rosenberg, Opinion, *Even in Texas, Mass Imprisonment is Going Out of Style*, N.Y. TIMES (Feb. 12, 2017), <https://www.nytimes.com/2017/02/14/opinion/even-in-texas-mass-imprisonment-is-going-out-of-style.html>.

<sup>3</sup> See generally Mike Lee, *The Conservative Case for Criminal Justice Reform*, THE FEDERALIST (Oct. 7, 2015), <http://thefederalist.com/2015/10/07/the-conservative-case-for-criminal-justice-reform/>; MARC LEVIN, CTR. FR EFFECTIVE JUST., TEX. PUB. POL’Y FOUND., *RESTORATIVE JUSTICE IN TEXAS: PAST, PRESENT AND FUTURE* 15-22 (2005), <https://www.texaspolicy.com/library/doclib/2005-09-restorativejustice.pdf>; Vikrant P. Reddy & Marc A. Lewis, *The Conservative Case Against More Prisons*, THE AMERICAN CONSERVATIVE (Mar. 6, 2013), <http://www.theamericanconservative.com/articles/the-conservative-case-against-more-prisons/>.

<sup>4</sup> Rebecca Beitsch, *States Consider Restorative Justice as Alternative to Mass Incarceration*, PBS NEWSHOUR (Jul. 20, 2016, 11:51 PM), <http://www.pbs.org/newshour/rundown/states-consider-restorative-justice-alternative-mass-incarceration/>.

<sup>5</sup> Erik Luna, *Punishment Theory, Holism, and the Procedural Conception of Restorative Justice*, UTAH L. REV. 205, 228-29 (2003).

<sup>6</sup> *Id.* at 221, 228.

the misbehavior in order to avoid its repetition, and integrate the young person into a supportive network.<sup>7</sup> In the restorative justice process victims have agency and are given a strong voice so that their interests can be protected.<sup>8</sup> By hearing directly from victims and family members about the harm that they have caused, young people who have offended are confronted with the impact of their actions on others and learn to develop empathy.<sup>9</sup> Giving youth the opportunity to apologize to victims and to fix the problems they have caused creates the potential for young people to become more responsible and productive adults.<sup>10</sup>

One such restorative justice model is the Fresno County Community Justice Conference (CJC), an innovative initiative of the Fresno County Juvenile Court.<sup>11</sup> A collaborative effort of Fresno County's Juvenile Court, Probation Department, District Attorney's Office, Public Defender's Office and Fresno Pacific University's Center for Peacemaking (the "stakeholders"), young people charged with first time misdemeanor offenses are diverted from the Juvenile Court to engage in a restorative process with their families and the victims of their offenses at the Center for Peacemaking. The agreements reached by the restorative justice participants are then reviewed and approved by the Juvenile Court.<sup>12</sup> Since its inauguration in 2008, the program has resolved over fifteen hundred cases.<sup>13</sup>

This ambitious restorative justice project is rooted in a location that is rich in diversity and contrasts. Located in the California's San Joaquin Valley, Fresno County is one of the richest agricultural areas in the world but includes the nation's most impoverished census tract.<sup>14</sup> A partially urban area with California's fourth largest school district, its cultural and

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<sup>7</sup> See *id.* at 228-29.

<sup>8</sup> See *id.*

<sup>9</sup> See *id.* at 229.

<sup>10</sup> See TEDx Talks, *Rethinking the Impact of Traditional Justice: Natalie DeFreitas at TEDx Vancouver*, YOUTUBE (Dec. 13, 2012), <https://www.youtube.com/watch?v=Jx4ExrPT8Wg>.

<sup>11</sup> Unless otherwise noted, all descriptions of the Fresno County Community Justice Conference contained in this article come from the author's own observations and work with the program.

<sup>12</sup> *VORP Overview*, FRESNO PAC. UNIV., <https://www.fresno.edu/visitors/vorp-cjc/vorp-overview> (last visited Feb. 4, 2018).

<sup>13</sup> Provided by the Director of the Fresno Pacific University Center for Peacemaking.

<sup>14</sup> ASSOCIATED PRESS, *Census Shows Central Valley Areas Among Poorest in Nation*, THE MERCURY NEWS, (Sep. 20, 2012, 3:38 PM), <https://www.mercurynews.com/2012/09/20/census-shows-central-valley-areas-among-poorest-in-nation/>.

political sensibilities are more closely akin to rural communities in the south.<sup>15</sup>

A brief description of the restorative justice process at CJC may be helpful to an understanding of its effectiveness. A referral is usually initiated directly by the Juvenile Court when the judge determines that the case is a first-time misdemeanor offense and is not unsuitable for restorative justice. A practitioner from CJC meets with the young person and his or her parent or guardian to discuss the requirements of the program and their willingness to participate. If the youth agrees to participate, the first step is a family group conference with a CJC facilitator. The youth, family members, and others whom the young person or family invite, attend the family group conference. During that conference, the parents or guardians have the opportunity to discuss the impact that the young person's offense has had on the family. Through facilitated conversation, the underlying reasons for the youth's behavior and challenges facing the young person and family members are also explored. Ways to "make things right," both within the family and with the victim, are also discussed.

The second step is the victim-offender meeting in which the victim explains directly to the young person the hurt caused by the offense and the ways in which it has impacted the victim. The participants then then decide together what will be required to repair that harm. Once an agreement has been reached it is presented to the court for ratification.

The stakeholders in the CJC collaborative express support and enthusiasm for the program. Some of the juvenile court judges note that the size of their caseloads often prohibits them from spending the amount of time that was required to make proper judgments about young people, and they are grateful that CJC is not so constrained. One praised restorative justice for being "all about the truth, not about the proof."

This article discusses the research project conducted for The California Endowment, the major funder of the CJC program, to evaluate its effectiveness on a number of matrixes.<sup>16</sup> The first goal was to determine whether young offenders whose cases were resolved in a restorative manner through the CJC program re-offended with greater or lesser frequency than the offenders whose cases were handled solely by the court prior to the establishment of the CJC program. This component was considered by

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<sup>15</sup> Chris Tausanovitch & Christopher Warshaw, *Representation in Municipal Government*, 108 AM. POL. SCI. REV. 605, 623 (2014).

<sup>16</sup> A special thanks to the other researchers on my team, Dr. Monique Morris and Dr. Juan Carlos Gonzalez, for their invaluable contributions to this study. Their excellent work made this study possible.

comparing recidivism rates. The second goal was to gauge whether the victims in CJC cases were compensated for their damages at a higher or lower rate than the victims whose cases were resolved solely by the court. This component was considered by comparing the rates at which restitution payments were made to victims. The third goal was to examine whether the program saved the County of Fresno money or if it cost more than the traditional juvenile court system. This component was evaluated by assessing the cost figures provided by the County of Fresno Juvenile Court, District Attorney's Office, Public Defender's Office, Probation Office and the Center for Peacemaking. The fourth goal was to assess the program through the eyes of the victims, the young people who had offended, and the parents and guardians who participated in the program. This component was assessed through interviews with program participants.

The study found significantly lower recidivism rates by offenders, substantially higher restitution rates to victims, reduced costs, and almost unanimous satisfaction by victims, young people, and their families.

## **I. Evaluation of the Fresno County Community Justice Conference (CJC) Program**

### *A. Methods*

The methodology of this research involved both a quantitative and qualitative analysis of the CJC program over a five-year period.

#### 1. Quantitative Analysis

A quantitative analysis of comparative rates of recidivism and restitution between five years of CJC cases and a "control" group of similar cases for the five-year period immediately preceding the inception of the program. It also utilized a simple cost analysis.

#### 2. Qualitative Analysis

The researchers interviewed sixty participants from sixty different cases: 20 victims, 20 parents or other family members of youthful offenders, and 20 young offenders. The randomization methodology insured that the participants selected would be representative of the gender, racial, and ethnic diversity of the pool. The interviews took place at a time and location selected by the interviewees and lasted between a half hour and an hour and a half.

Prior to these interviews the researchers also conducted confidential interviews of the stakeholders to assess their perspectives on the program

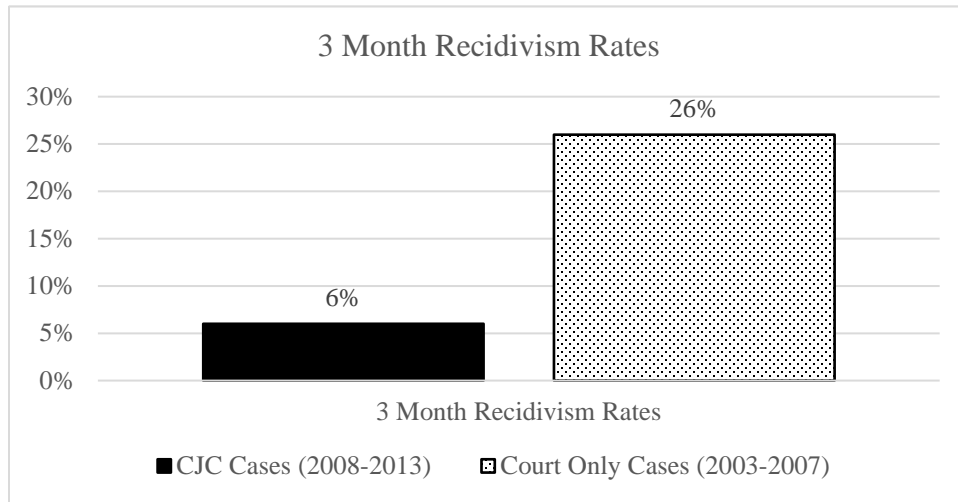
and to ensure that the interview questions would be as comprehensive as possible. These stakeholders included the Fresno County Juvenile Court judges, juvenile probation officers, district attorneys, public defenders, and CJC leaders and facilitators.

## B. Quantitative Findings<sup>17</sup>

### 1. Comparative Recidivism Rates

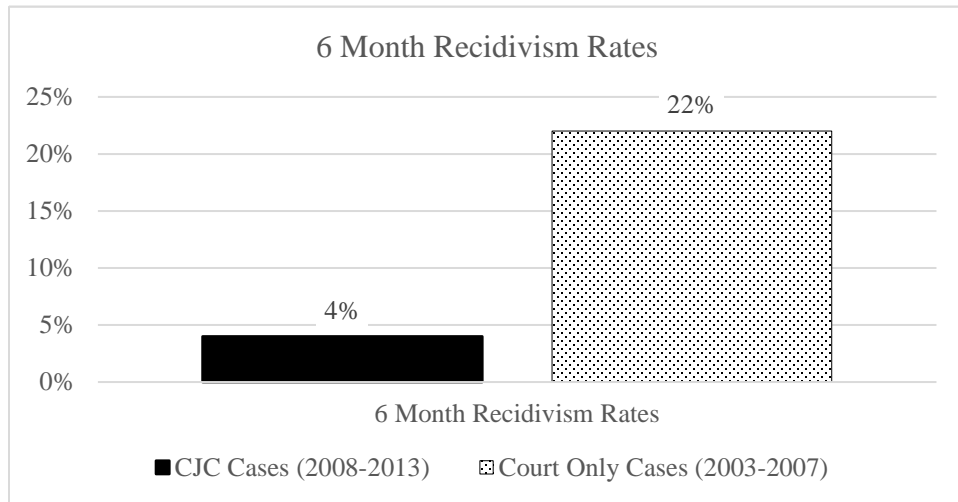
The Fresno County Probation Department data show that within three months of committing an offense, 26% of the young people in the “control” group, defined as those who were charged with a first misdemeanor offense and would have been eligible for the CJC program if it had existed at that time, re-offended while only 6% of CJC participants did. Within six months, the rates were 22% for non-CJC participants and 4% for participants. At one year the rates were 15% for non-CJC participants and 2% for CJC participants. At two years the gap was similar: 13% for non-CJC participants and 2% for CJC participants.

**Figure 1. Three months after the offense, CJC youth recidivate at a rate of six percent (2008-2013). By comparison, the recidivism rate for court only cases is twenty-six percent (2003-2007).**

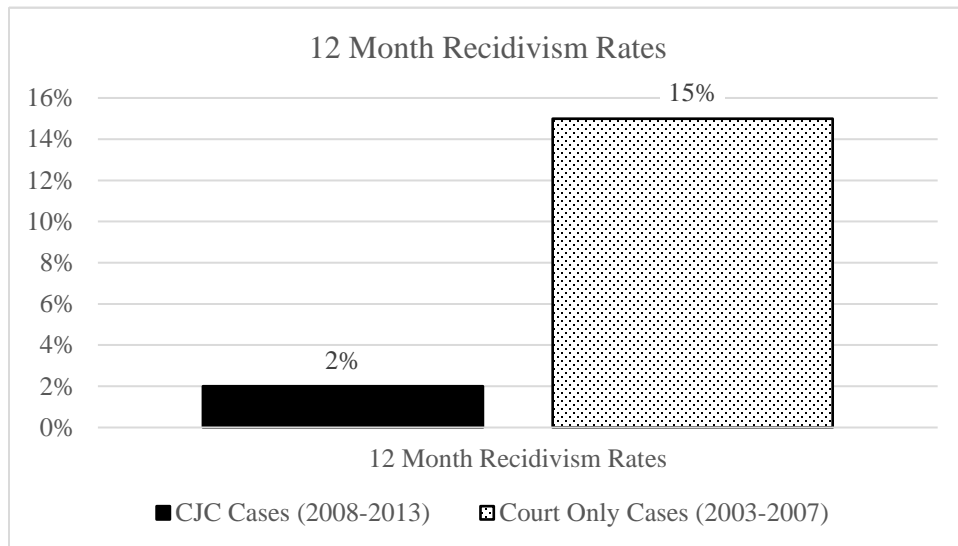


<sup>17</sup> Dr. Monique Morris, with the assistance of Aishatu Yusuf, analyzed much of the quantitative data and crafted the graphs using data provided by the Fresno County Juvenile Probation Office, the County of Fresno Revenue Collections Unit, and the Fresno Pacific University Center for Peacemaking.

**Figure 2. Six months after the offense, CJC youth recidivate at a rate of four percent (2008-2013). By comparison, the recidivism rate for court only cases is twenty-two percent (2003-2007).**

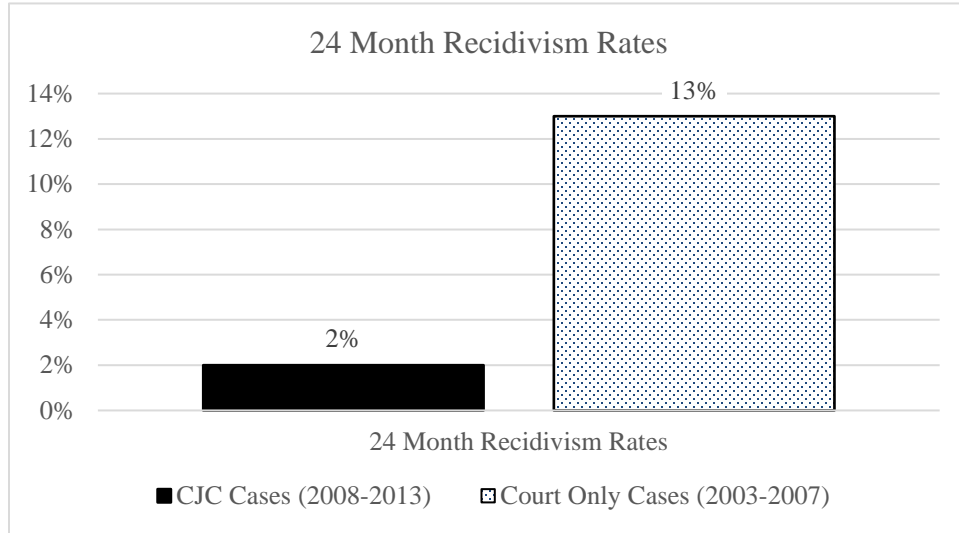


**Figure 3. Twelve months after the offense, CJC youth recidivate at a rate of two percent (2008-2013). By comparison, the recidivism rate for court only cases is fifteen percent (2003-2007).**

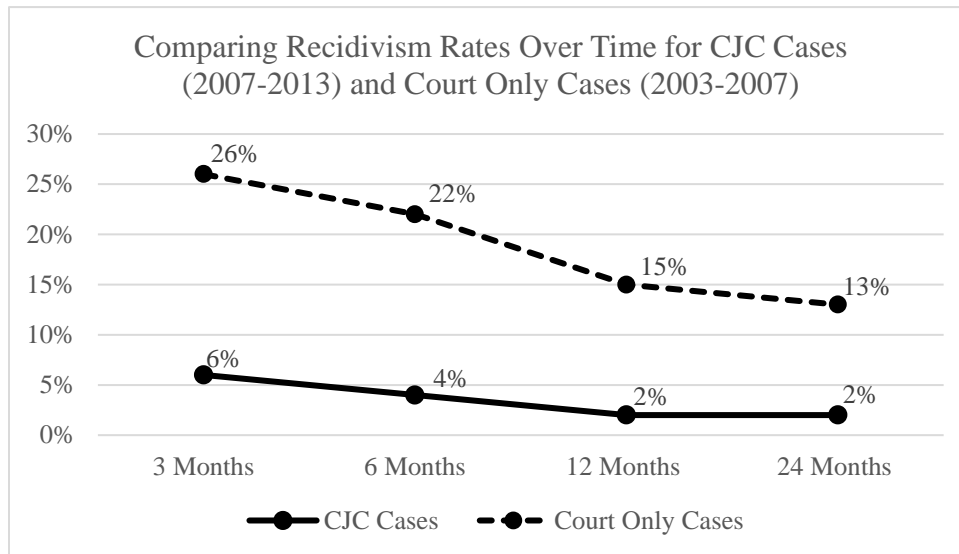




**Figure 4. Twenty-four months after the offense, CJC youth recidivate at a rate of two percent (2008-2013). By comparison, the recidivism rate for court only cases is thirteen percent (2003-2007).**



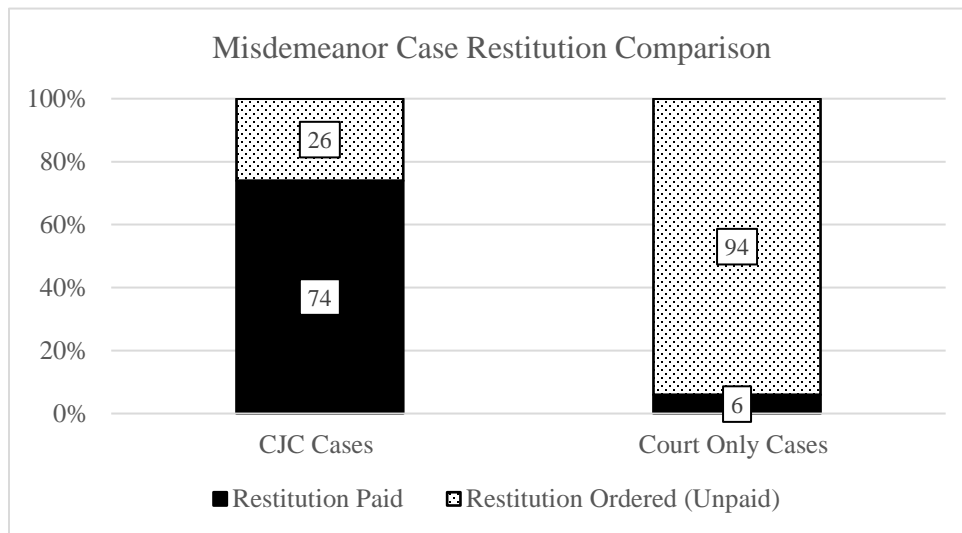
**Figure 5. While recidivism rates for both CJC and non-CJC youth decrease over time, CJC youth have lower overall rates.**



## 2. Comparative Restitution Rates

Historically the Fresno County Probation Department was responsible for executing the Juvenile Court orders for restitution, but records were not kept in a manner that could accurately document rates of restitution. In the three years prior to the study, however, the Fresno County Revenue Collections Unit assumed this duty. The transfer of authority made an assessment of restitution rates by Fresno County during the entire time period of this study virtually impossible. Instead, the researchers used the rate of restitution by the County during those years after the Collections Unit took over the responsibility.

**Figure 6. In a three-year comparison, CJC youth paid 74% of assigned restitution. In comparison, non-CJC youth only paid 6% of assigned restitution.**

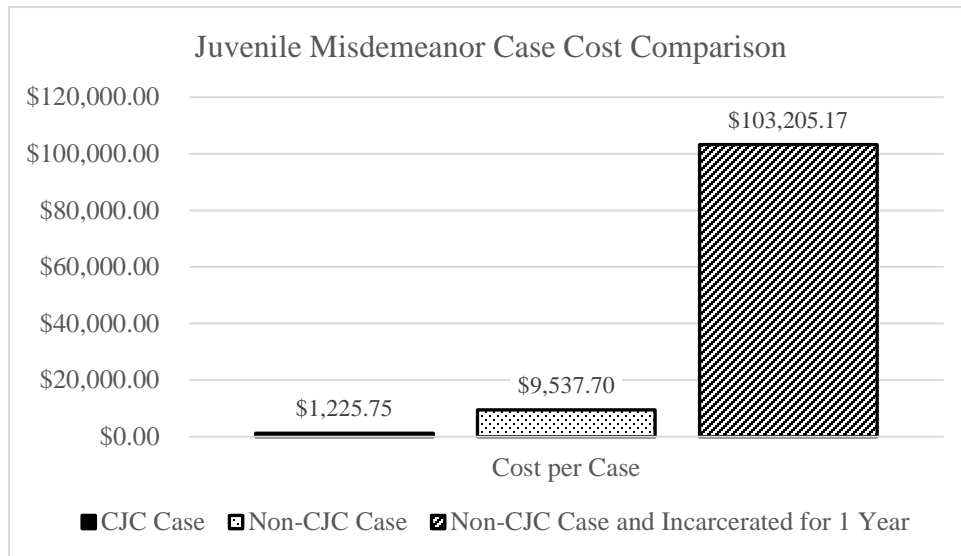


The victim restitution ordered by the Juvenile Court to be paid to the Revenue Collections Unit for the 2012-2013 year was \$1,380,628.91. The amount actually paid on those court orders was \$90,204.30, or slightly over 6% of the amount ordered. The amount of restitution ordered by the court in CJC cases was \$72,685.58 and the amount collected by CJC was \$54,061.67. Hence, the percentage of restitution paid was 76%.

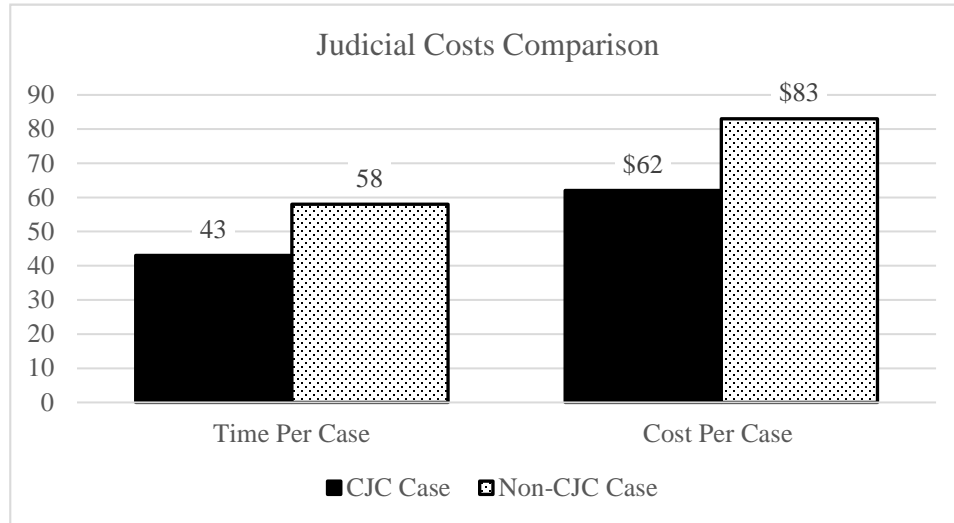
### 3. Comparative Cost

Using cost figures provided by the Fresno County Juvenile Court, Probation Department, District Attorney's Office, Public Defenders Office, and Fresno Pacific University's Center for Peacemaking, we calculated the average cost of juvenile misdemeanor cases that were processed solely by the court and those that were diverted to CJC. It should be emphasized that the figures presented are very rough estimates, as each case is different and statistics kept by Fresno County offices are not closely correlated with the research questions presented here. Costs escalate when a case goes to trial and/or a young person is incarcerated. Yet even cases that resolve prior to trial or do not involve incarceration can require significantly different amounts of time and thus revenue.

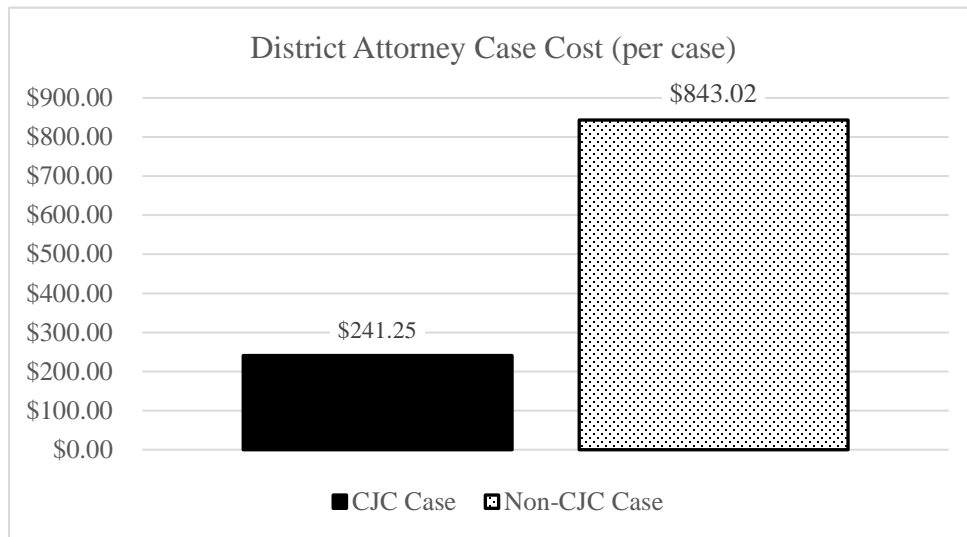
**Figure 7. The estimated total cost for a CJC case is \$1,225.75, compared with \$9,537.70 for a non-CJC case. Thus, a non-CJC case costs \$8,311.95 more than a CJC case. Furthermore, if the youth has a non-CJC case and is incarcerated for a year, the total cost jumps to \$103,205.17.**



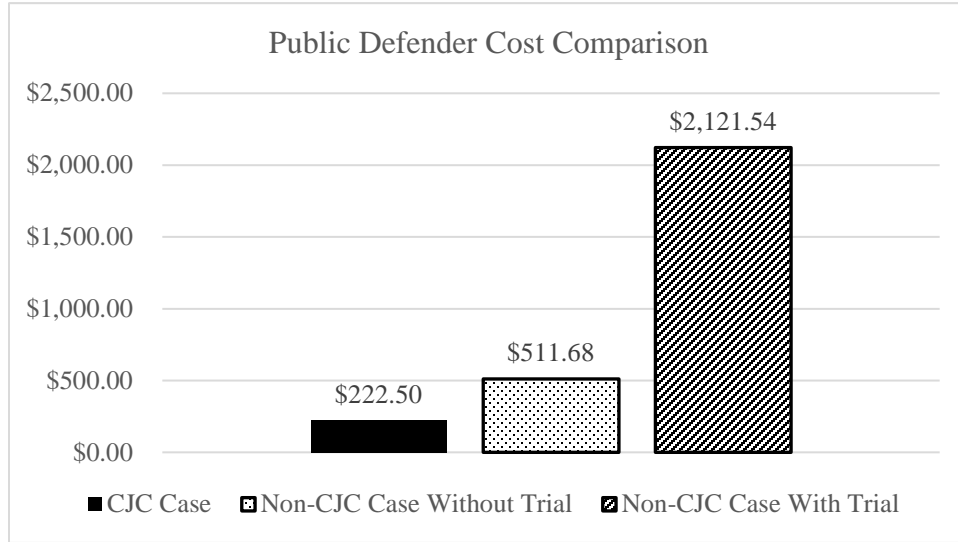
**Figure 8. On average, judges spend 58 minutes per non-CJC case, compared with 43 minutes per CJC case. The judicial cost per non-CJC case is \$83, compared with \$62 per CJC case.**



**Figure 9. The estimated total district attorney cost difference between CJC and non-CJC cases is \$601.77 per case.**



**Figure 10. A non-CJC case that does not go to trial costs the public defender's office \$511.68, which is \$298.15 more than a CJC case. This figure amounts to 43% more funds spent on a non-CJC case than a CJC case. Furthermore, if a non-CJC case goes to trial, the public defender cost jumps to \$2121.54, which is \$1899.04 more than a CJC case.**



The average cost of a juvenile misdemeanor case that was processed through the normal court system at the time of the research study was \$9,537.70, if the case was resolved prior to trial and the young person was not incarcerated but was placed on probation for one year. This total reflects a cost of \$83.00 in judicial time, \$845.02 in District Attorney time, \$511.68 in Public Defender time, and \$8100.09 in Probation Department time. If the youth was incarcerated, or if the case went to trial, the costs were significantly higher. For example, a case that went to trial cost the Public Defender's office alone over four times more than a case that was resolved prior to trial. Similarly, a case in which a young person was incarcerated for a year cost Fresno County \$103,205.10. For purposes of this study, however, the researchers took the more conservative view and used the average figure for cases that did not go to trial and involved probation rather than incarceration.

The average cost of a juvenile misdemeanor case that was diverted to CJC at the time of the study was \$1225.75. This figure represents an average cost of \$700.00 in Fresno Pacific University Center for Peacemaking time, \$62.00 in judicial time, \$241.25 in district attorney time,

and \$222.50 in public defender's time. Hence, the cost differential between the cases processed solely through the court system and those diverted to CJC was \$8,311.95 per case.

In addition, the County received significant savings due to the substantially lower recidivism rates of CJC participants. An economic analysis of this impact would have required assessing a complex set of variables which would be subject to some conjecture. In addition, the savings range would cover such a wide spectrum that it would not be a helpful measurement. For that reason, the researchers chose to focus on a more conservative and concrete analysis of the current costs.

### *C. Qualitative Findings<sup>18</sup>*

The qualitative portion of this study included interviews with victims, family members, stakeholders, and offenders.

#### *1. Interviews of Victims*

##### *a. About the Victims*

Twenty victims were selected at random and interviewed at a time and location of their choice. The interviews lasted from a half hour to an hour and a half. The victims interviewed included: adults, juveniles, city employees, school employees, parents, friends, strangers, business representatives, and one surrogate victim. The interviews spanned the entire length of the program. All of the victims interviewed had reached agreements with the offenders and the terms of the agreement were satisfied. The offenses included: assault, battery, theft, bringing a knife to school, destruction of property, schoolyard fighting, and leaving the scene of an accident. In a few of the cases, the victim's injuries were substantial. The perspectives of the participants are presented here as they were reported in the interviews. By such presentation the researchers do not intend to suggest that they are in any way attesting to the veracity or accuracy of those perceptions.

##### *b. Overview of Victims' Perspectives*

Several prominent themes kept recurring in victims' interviews. They voiced almost unanimous enthusiasm for CJC, praise for CJC staff, and support for restorative practices. Of the twenty victims interviewed, only the two parent-victims were dissatisfied with the results due to the

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<sup>18</sup> Dr. Gonzalez conducted the CJC participant interviews.

unique circumstances of their cases. Those cases will be discussed in more detail below. With the exception of these two parent-victims, all victims expressed unqualified satisfaction with those agreements. All victims felt their voices were heard, they were respected throughout the process, and their needs were met.

Some victims were very skeptical about CJC at the outset or were still very angry at the offender before the initial conference, but those emotions dissipated by the end of the conference. Indeed, many of the victims were acutely aware of the pressures facing young people and the traumatic lives that many of them had experienced. Ultimately, all but one of the victims voiced the opinion that CJC could even effectively be used for more serious crimes. That one victim exception was not opposed to the concept but simply did not feel that she had the expertise to voice an opinion. Some victims noted that it would be necessary to carefully evaluate the attitude of the offenders before referring them to CJC for more serious crimes to ensure that they were truly repentant.

*c. Hearing from Victims*<sup>19</sup>

Overall, the victims reported high degrees of satisfaction with the CJC program. Eighteen of the interviewed victims were very satisfied with the process. One victim stated, "I feel like this is a quality practice." Another victim noted: "I feel 100% satisfied." Several victims said they appreciated the opportunity to have a dialogue with the offenders. One victim said:

It far exceeded what I had hoped, far exceeded everything...it was that open dialogue that really helped to restore the relationship...Yes, she had assaulted me, but because I was able to talk about what she had done and why I was angry, or why I was upset, I think she understood that. And so, it actually was a very emotional process...I was finally able to talk about how her actions had hurt us.

Several victims expressed their gratitude for the focus on their needs, and the ability to maintain some control over the process and the ultimate outcome. Victims were given the choice of location for the victim-offender meetings and some selected unusual venues like a McDonald's parking lot or a school field. One victim shared that they appreciated having some control over the consequences imposed on the offender: "I was able

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<sup>19</sup> The perspectives shared in this section are from confidential interviews which occurred in Fresno County, California during Spring 2015 with victims who participated in the Community Justice Conferencing program between the years of 2010-2015.

to dictate what I felt was appropriate as a restorative practice...I think that's a valuable part."

Many victims appreciated that the consequences were tailored to each situation. Restorative practices strive to match the consequences to the needs of the victims, the particular circumstances of the offense, and the particulars of each young person's situation. Sometimes victims requested that young offenders "make things right" by doing work that aligned closely with their offense. For example, some of the youth who had committed vandalism agreed to clean up locations where they had previously defaced property, or to work with an "ex-tagger" who ran a ministry and acted as a role model to young people. In other cases, students who had committed offenses against school authorities agreed to do work for their victims and forged a closer relationship with them. Many of the young people were required to improve their grades as a way of "working off" their offenses. A common theme from the interviews was victims' approval of these types of consequences. One victim explained:

If a kid were to do something that damages property...in those situations where the parent is fined, that doesn't seem to be as practical as having the student pay for the damage...they may not be able to pay for it monetarily, but they're paying for it through some restorative practice.

Another victim expressed the view that participation in the program was a more meaningful consequence than simple restitution:

[After a theft] what you did is you destroyed my confidence in my safety...and that is bigger than this fifty or sixty bucks...so it [CJC] really brings that person to that conversation because [otherwise] that doesn't happen...they go to jail for a year or two...they come out, the person they stole from, they forget about...But now [with CJC] this person has a face...very different...and a story too.

In addition, many of the victims expressed feelings of relief and enhanced safety. Several noted that they were grateful to CJC for helping reduce the fear of retaliation from their offenders. This was expressed by both youths and adults, by school officials and neighbors alike. As one victim shared, "If I see him again, I don't have to like worry if anything is going to happen. That it could just be safe and just to know that he's not out there planning on doing it again or something." In addition, victims felt that the program made the community safer. According to one victim, participation in the program made the community safer because it was "going to cause [young people] to think twice, or think longer about doing



something like this again, or doing something illegal again. There's no doubt in my mind." Another victim explained why CJC enhanced community safety:

We are caring about our kids more, investing in our kids more, instead of just throwing them in jail because they did something wrong. Giving them a second chance, you know...it potentially can make our society safer if these kids, even if one out of twenty, turns their life around.

Another reoccurring theme in victims' interviews included an appreciation of the offender's role in the restorative process. Victims generally found it rewarding to observe offenders learning from the experience, appreciated the young offender's participation given the emotional demands of the program, and acknowledged the difficulties many of the offenders had experienced.

Observing how difficult the process was for young offenders, one victim stated: "If we coddle them [young offenders], it's just...not going to get you nowhere" while holding them accountable could have positive results. This victim explained that "we all kind of got something" from the conference, and it "could teach [the young offender] how to deal with situations" in the future. Another victim remembered:

I thought it was going to be a fake, you know, 'Hey, I'm sorry. It won't happen again' kind of deal. But once he started speaking, I saw that the tears were coming out and he was having a hard time expressing himself, I realized he means it and I think he learned from it.

Yet another victim made this observation:

I think the really powerful part for him [the young offender] was to hear everybody else's experience because he's ten, eleven, he only sees things from how he felt about it, how it impacted him. But then he got to hear my side and...it was powerful for him to have to summarize and repeat it.

Many victims also discussed an appreciation for the holistic nature of the program. Several victims pointed to the life challenges the young offenders were experiencing when they committed the offense. One victim described learning a new perspective about the offender: "maybe you stole something, but you know what, you were hungry... You stole a cell phone because you were going to sell it so you could help your parents pay rent... I just don't know how you can incarcerate someone for that." Instead, restorative process can help "bring hope to many of those kids." Another

victim learned that the young offender had lived in an abusive environment and had been punched in the face by his mother when he was in kindergarten “because he couldn’t understand the homework.” This helped the victim understand why the young offender had felt fighting “was the only way to solve the issue.” The victim also learned that even though the offender was living in a home where the adults were using drugs and drinking, “he was a good kid.” Yet another victim said:

You have to get to know the kids and the family. It’s going to take more time. It’s going to get messy. You may come to find out the kid had a knife, but hey you know what, they go home to a car every night, they don’t know where they’ll park it. So, they have to carry a knife. And they just totally forgot it was on their person...we have to look at circumstances, that not everybody is the same.

Other victims viewed the conference as an opportunity for troubled youth to feel supported. One victim explained that despite what happened, “I still believe in the good in people” and that “kids especially have to see that this mistake does not define you.” Another victim explained how important this support is: “I think a lot of these kids don’t get the chance when they’re younger [...] to see forgiveness. Or they don’t get to see the good part of society. They only see the bad. So, you know, I believe in positive reinforcement.” Another victim reflected on the program:

I’m glad they have something like this. I mean, it gives kids...that just make bad mistakes, hang out with the wrong people, they’re not really trouble makers...They try to do it to fit in...they may have messed up once, and now they’re going to get a chance to make that right.

Several victims compared their perspectives of the traditional criminal justice system to their experiences with CJC’s restorative justice program and more than half expressed a preference for the restorative practice. One victim said: “It just made sense...not everything is black and white. [Instead of] ‘you did something wrong, you go to jail, or you get punished.’ It’s ‘you did something wrong, here’s a chance to make it right.’ And I think the majority of people want that...it just makes sense.”

Another interviewed victim expressed the belief that “punishment doesn’t work...The prisons are full because we want to punish them.” But they feel that, “especially the kids, they don’t see it. They don’t see punishment as a way to learn.” This victim believed it was more important to create a community for their children in which others learn to be “responsible” and know that “their behavior had consequences...We can’t

throw away kids...unless we throw them away to Mars...we need a better community.” Another victim explained that while incarceration may be necessary at times, healing should be made a priority:

I think most of our offenders out there were victims at one point in time themselves and...were thrown into whatever situation...and never had the time to heal like a lot of us have. And they become what they know...with just a little care and understanding they can become a better person...we spend so much money on incarceration, and I think it's necessary, I do. But I also think if we can find money to try and rehabilitate some of these, especially kids, you know at a young age because they're not adults. They don't know everything that adults know and they're more possibilities to change.

The only exceptions to victims experiencing general satisfaction with the CJC program were two parent-victims who had called the police because of their children's behavior toward them. One parent-victim felt the program was not effective for her son because the offense was “just a personal thing at home.” She felt that her son was “manipulating the system” and the process involved everyone just “rolling through the motions.” She explained that “It just didn't work, you know, based on where we were at, we were beyond the point of...he was too stubborn. It was too soft.” She noted that he has gotten “a lot better since then” though, and “it could probably make huge difference, this program, when it's not the parent [as the victim].” The other parent judged the program to be unnecessarily rigorous and burdensome for the particular dispute involved.

In sum, victims cited the following reasons for their satisfaction: the focus on their needs, their feelings of relief and enhanced safety after the conference, and their ability to maintain some control over the process. They approved of the fact that the consequences were tailored to each situation, that young offenders had the opportunity to learn from the experience, and that the youth's remorse seemed genuine. Some developed new perspectives after learning about the difficulties some offenders had experienced in life and almost all expressed a preference for the restorative approach rather than the traditional juvenile justice process.

## 2. Interviews of Parents and Family

### *a. About the Family Members*

The sampling of parents, grandparents, and guardians of youthful

offenders interviewed in this study came from various walks of life and all parts of Fresno County. They were of varying ages, races, and ethnicities. Some relatives were struggling single parents, some were parenting grandparents, and others were traditional nuclear family members. The families' economic circumstances spanned the range from poverty to wealth. Some parents were disabled, some were working several jobs to make ends meet, and some had jobs in police departments, corrections, and the military. The offenses their children committed included: vandalism, drug possession, shoplifting, theft, and bringing a knife to school. For some of the families, the child's underlying offense was a single isolated incident, while for others it represented a pattern of misbehavior.

Some offenses involved considerable damage while others seemed so minor as to raise the question of whether they were even suitable for referral to the juvenile justice system. For example, one junior high school child was scribbling on an old school gym floor with a tack during P.E. class because he was bored. The father, a law enforcement officer, readily agreed to pay the small sum it would cost to sand over the negligible damage, and the school agreed that such arrangement would take care of the matter. Months later the family was shocked to receive a notice to appear from the court.

Unlike victims who attended only the victim-offender conference, this group of interviewees had a two-fold involvement with CJC as they also participated in the family group conference. Almost all of the family members expressed a high degree of satisfaction with the program. Many reported that it had significantly improved both their child's behavior and the relationships within the family. There were two notable exceptions. One involved a parent who was also a victim. The dissatisfaction there mirrored the same issues that surfaced in the victim interviews. In the second case, the child had a serious drug problem and required considerably more intervention and treatment than CJC was then designed to deliver. It did exemplify one flaw in the configuration of CJC within the larger juvenile justice system. Currently a young person in need of drug treatment cannot be referred to CJC, because only the Probation Department is able to provide the drug treatment services they require. Interviews with stakeholders indicated that a change to the program that enabled children to receive drug treatment and also reap the benefits of the CJC program would not be difficult to create.

*b. Overview of Parent and Family Perspectives*

Parents and guardians frequently reiterated their appreciation for the program. They felt it effectively taught their children that their actions had

consequences. They also felt it was invaluable to have someone from outside the family communicate to their children in a caring capacity that they had committed a wrong and that they needed to take responsibility by fixing it. Parents particularly valued that restorative justice in general and CJC in particular distinguished between a “bad choice” and a “bad kid.” They lauded the fact that the program sought to uncover and discuss the underlying causes for the children’s behavior. Parents also applauded the speed and convenience of the program as compared to the juvenile justice process.

*c. Hearing from Parents and Guardians<sup>20</sup>*

Overall, family members expressed a high degree of satisfaction with the CJC program. As one parent noted:

It helps them to admit their faults and also helps them to apologize. The apology letters were wonderful...It taught me another way to talk to my son, another way to ask him questions and not make him feel uncomfortable about answering the questions truthfully...and it taught my son...just one more step at being a man, from boyhood to manhood...I think that this program is really good for not only the kids but for the parents.

One of the aspects parents and guardians appreciated about the program was that it helped hold their children accountable for their mistakes. One method of accountability interviewees found valuable was the community service and work their children had to complete as a part of the agreement. When parents or guardians agreed to pay restitution, the offending youth was usually required to do some kind of work to reimburse them. The interviewees recounted how difficult the work was for their children. Parents explained that their children agreed to do manual labor at their churches or community centers, that they cleaned bathrooms and worked in the agricultural fields and they were “dog tired” when they got home. Two children had agreed to work cutting cactus, which required them to get up “before sunrise...that was enough, and they valued that because their dad would tell them: ‘Put your effort in school because school is easier than...the fields. That pencil is lighter than the shovel.’” In many situations, the children were so young that they could not legally work. In those cases,

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<sup>20</sup> The perspectives shared in this section are from confidential interviews which occurred in Fresno County, California during Spring 2015 with the parents and family members of young offenders who participated in the Community Justice Conferencing program between the years of 2010-2015.

the youth worked in their own homes doing jobs their parents would ordinarily pay others to do. As one parent phrased it, the consequence included giving them “something you don’t like to do and let’s take away something that you like.”

Several parents and guardians noted their approval of the accountability CJC required from the youth over the punishment of the traditional criminal justice system, and their preference for an educational rather than a punitive approach. One parent stated that the program made the young offender “think about what they did, versus, oh you did this, you’re going to jail for so many days then you get out.” Another parent explained the educational value of the program:

I was excited because they didn’t do the, ‘You’re in jail, you committed a crime, here you go.’ They did a teaching with my daughter. And kind of broke down, ‘Do you understand what you did? Do you understand it was wrong?’ And then...they kind of come along side of her...I think that that actually made her deal with the severity of what she had done.

Additionally, most of the parents observed a significant positive change in the behavior of their children after participating in the CJC program. One recurring theme was parents’ descriptions of their children being both more responsible and more respectful after their involvement in CJC. One parent described it this way: “I see him as responsible, a better boy...friendlier...he was straightening up...he was straightening his path.” Another parent felt that the program “helped him a lot...with his anger.” A third parent explained this impact:

So, this program changed his direction, it made him look and see, I don’t want to go like my dad went [14 years in prison], I don’t want to do that... he wanted to hang around with different people...The program stopped him from ditching and cutting up...It really put a hold on it like, ‘okay, let me think about this’ is what I’m thinking. They did something in there to change his mind and that’s the important thing to me.

According to the interviewees, one of the factors many of the young people cited for committing their offense was the role of peer pressure. After the conferences, not only did many of the children change their own behaviors, they altered their friend groups to accommodate the changes. A number of parents mentioned that after the program, their children left the friends who had encouraged them to get into trouble and made new, more

responsible friends.

Another result mentioned by many interviewees was an improvement in family communication after participation in CJC. Parents and guardians expressed gratitude to CJC for providing useful support in a difficult situation and helping them to improve their parenting skills. One parent explained that there had been “a history of some dysfunction and addiction in our family,” and so learning how to “get together and actually see things from a different perspective,” to “see the problem and then teach about the problem, and then move forward as a family” was very helpful. Another parent explained:

I think it helps the family pull together, come a little closer, it helps teach the parents more experience on how to handle their kids, how to talk to their kids, how to get through to their kids. And I think it teaches and helps the kids open up more to their parents, not be so distant.

Several family members compared their feelings about the CJC program with the frustrations they had experienced with the juvenile justice process. The parent of a young African-American boy remembered being in court and “they kept asking if he was in a gang because he wore a lot of blue.” She became so frustrated that she finally stood up and explained that she bought all his clothes and she “liked blue.” She related that she had called the police to get help when her son would not go to school, but “the police totally blew it out of proportion” and charged him with things he had not done.

Another parent expressed frustration over missing a court date because the notice went to a previous address. As a result, a warrant was issued, and his junior high school son was taken to juvenile hall even though his offense was just “a kid being a kid.” Another father, employed in law enforcement, described having a problem with how the judge treated him. He explained that “right off the bat, I mean he was just harsh...It’s like he talked down to me like I was stupid or something.” He recalled that the judge “seemed agitated and he was just point blank like, I don’t want to hear your excuses, your lies and everything.” He remembered feeling that “if he knew what my employment was, it probably would have been a different story.”

Parents and guardians also preferred CJC over the experiences within the traditional system because it was more convenient and less time consuming. One parent stated that in court, “the judge sees you for five minutes, but you’ve waited hours...I think that’s typical in any kind of court setting. It’s just a long process...I think it’s not the best way to use your

funds.” Another parent explained that they “had to sit at the courthouse all day for you know from 8-5 waiting for her to be called into a court [versus CJC] which worked around my schedule.”

For other parents, it was the restorative justice process they valued:

For someone to make time for your kid, was awesome...I didn't want my kid to be locked away and think that this is all his life is going to be just because he got into trouble. I didn't want him to think that...there is no one out there who cares, because right now, the people tell you, the system don't care about kids, especially young black ones, they build prisons for them and you know this is where you're going, you're not going to be anything. So it was awesome to me that somebody...would say 'hey, you can change, you can turn around, you don't have to go to prison, finish school...get a job.' I think it taught him that there [are] some people out there that care and we're not all trying to throw you away.

Of the twenty parents and guardians interviewed, only a few expressed concerns with the program. One father shared his perspective that that the program seemed to favor the victims, rather than the young people or their parents. The other parent who expressed dissatisfaction with the program involved a child who was addicted to meth and whose offense had no actual victim other than himself and the family. His mother expressed the view that when a child is addicted to drugs “it needs to go a whole different way; they need to be made to be functional...if they're not going to stop the drugs, they're not going to stop the behavior.”

In sum, families expressed satisfaction with CJC because their children learned to take responsibility for their actions, had a learning experience, exhibited positive behavioral changes, and abandoned negative peer groups. In addition, the program improved the dynamics within the family and enhanced the communication skills of both the young people and their family members.

### 3. Interviews of the Youth

#### *a. About the Youth*

The young offenders were of varying ages, races, ethnicities and included an equal number of boys and girls. Some lived in rural areas of Fresno County, others in Clovis, and the majority in various areas in the city of Fresno. Some were experiencing extreme poverty in their homes, while



others came from affluent neighborhoods. A few were victims of abuse and/or neglect, and two suffered from disabilities. Some were in continuation or other alternative schools or in independent study but most were in regular public schools at the time of the offense. For some their offense was an isolated incident while others had a series of previous behavioral issues. The offenses consisted of shoplifting, theft, assault and battery, vandalism, and bringing a knife to school. The timing of their experience with the CJC program ranged from five years prior to the study to a few months before the interview. None of them had any prior experience with restorative justice.

*b. Overview of Youth's Perspectives*

Every single offender reported satisfaction with the program. All felt that their voices were heard and that they were respected throughout the process. Not surprisingly, those who had experience with the program many years ago could not remember it as well as the more recent participants. All the young people reported that they had reached agreements with their victims and all but one completed those agreements. Most were satisfied with the terms of the agreements, although a few felt they were too harsh, and not proportionate to the degree of the offense. In the one case of non-completion the young person had fulfilled all the requirements of the original agreement, but when the school requested an additional conference on an issue unrelated to the offense the parent refused.

With some exceptions, the young people interviewed demonstrated considerable insight about their behavior and had thoughtful answers to most of the questions. Some were forthcoming and articulate while others were more reticent. Many of the themes identified in the interviews of the victims and parents also appeared in the interviews of the young people. Rather than relating the testimony according to those categories, however, a few youngsters' stories will be presented so that the context will be clear.

*c. Hearing from the Youth<sup>21</sup>*

These stories reflect the perspectives and opinions of a few of the young people themselves and are not presented here as an accurate factual rendition.

The interview of a high school sophomore who was arrested for shoplifting is somewhat emblematic of several of the shoplifting cases. She

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<sup>21</sup> The perspectives shared in this section are from confidential interviews which occurred in Fresno County, California during Spring 2015 with young offenders who participated in the Community Justice Conferencing program between the years of 2010-2015.

was expelled from an excellent regular high school for anger issues and was assigned to a continuation school where she made an entirely new group of friends. One of those friends was pregnant and had no money for baby clothes, so the interviewee helped her shoplift. Because the interviewee had not stolen for herself, and even had receipts for the items she had purchased, she was “furious” and “upset” that she had to spend five days in juvenile hall before the initial court hearing where she was offered the CJC program.

At first, she felt that the program was too onerous: “I was like I don’t want to do this, this is BS.” She did not want to apologize because “I have a hard time saying I’m sorry to people. My pride is just up there.” She knew “I was wrong but I disregarded it... at first I was like I don’t care, I got caught at, who cares man.” She explained that the family group conference was very “hard for me, because I had to sit there with my mom,” and they had been feuding. In fact, at one point she regretted her decision to participate in the CJC program. She remembered thinking “this is doing too much...they want me to do all this stuff, and I could have just sat in juvenile hall for ten days.” She was also upset that her mother insisted that she do forty hours of difficult work. After she started the program, however, her perspective changed:

It really helps, it kind of made me feel like, it made me believe, not like in a higher power, but I...wasn’t so selfish...They talked to me like I wasn’t a delinquent...they talked to me like I was just a person [I began to understand that I] had to be responsible at this point. We made...the choice to do what we did. [The mediator at the family group conference] made me and my mom talk, that’s what that accomplished because after we left we were talking... Our communication skills were very horrible and now we can talk [...the program] helped lay that foundation.

At the victim-offender conference she learned the impact of shoplifting on the store and its employees and she described feeling “dumbfounded, I was wow, I didn’t know.” She explained that before the conference, she thought that big stores had so much money that they would just “get product every day” so they could “spare \$30.” She explained that participating in the program helped “open my eyes to look at the bigger picture [and understand the seriousness of my actions.] When the store representative accepted my apology I kind of felt better, it kind of took a little weight off my shoulders.”

She said that the program also “made me look at who I was hanging

with and where I was going” and caused me to cut off the friends who had encouraged her to shoplift. She said that “it made me want to get back to regular school with regular people.” She made new friends, returned to the regular high school, went to prom, and graduated on time. At the time of the interview she was holding down two jobs and studying to be a corrections officer. She said the program changed “my whole view on things” and that “I probably wouldn’t be here right now” without it. She explained that the program helped her decide not to get into trouble again:

You’re really going to think about it now...I don’t want to do this again because now you have to face your victim all over again, and you have to hear what they have to say, you have to hear what your mom has to say. [...But] in juvenile hall I focused on getting home, I was crying, I wasn’t focused on being rehabilitated for what I did. I was too busy on why, I need to go, I need to get out of here, I don’t care, ugh. [...] I don’t feel that is as effective.

A fifteen-year old boy described how the CJC program changed his life. He had pushed his little brother and broken a window in anger. He explained that the program “does change people while going through it.” He said that it “helped me to bring me closer to my mom, to understand where she was coming from. It helped me learn a bit about myself more too.” At the family group conference, his parents shared the impact his offense had on them. They explained and that they “have to work harder to pay the bills now” in order to repair the window, and they had to deal with his involvement in the juvenile justice system. He explained that after hearing that, he felt “horrible,” like a “pile of dog crap.” He described how participation in CJC impacted him:

What this program helped me realize too is, you know, I’m the older brother. I have to be a role model to my little brothers because, you know, they look up to me. If I was still in that same position I was in when all this happened, being, you know, trying to be someone I’m not, they would’ve followed my steps and they would’ve been in a bad position right now too. So, I’m glad that I went through this program. We’d probably be in a different predicament [because] I’d probably be doing stupid stuff...still...[Before CJC] I was acting like somebody I didn’t want to be...You see things, you want to be like them...A thug. That’s honestly what I wanted to be when I was going through that. But now, you know, I’m just me...You know, growing up in the hood, you

get inspired by it...But now, I'm like, these guys are struggling out here...they're scared everyday they're going to get shot or not. Me, I don't have to worry about that. I had ridiculous friends that were smoking, like, weed every day and just doing stupid stuff. But now, you know, my buddies are in college. They're all doing something. [...The program] brought me to the place I am right now. You know, graduating, going to college, a closer relationship with my mom, working with my mom. It helped me open up to my family more. Before I tried to keep distance from them, now, that's all I got is my family.

For most of the young people, the impact of hearing how their behavior had impacted their parents and other family members was a powerful experience. Several expressed the view that the style of mediation used by the CJC program enhanced this experience. One young person explained that having "them repeat it back to me to let me know that they were listening to me...that was...the best way...they were all paying attention and they were, like...we had to restate what, like, people would say, showing that we'd pay attention."

One girl reported that when the offense happened, she was just mad. She explained, "I was in my own little world, listening to music, [I] wasn't paying attention... I felt like I didn't do anything wrong." But, when her grandmother told her how she felt about it, she felt that "it was good to know, because I was like, 'Oh, I didn't know she felt like that'...that she was scared." As a result, she realized what she had done wrong and it she said, "[it] helped me communicate more." Now she talks more, and tells her grandmother when things are upsetting her. She explained that participating in the program "helped me calm down more, and [learn] to just listen to what other people have to say before I just blow up." She provided an example of this change: when her grandmother told her that she thought her friends were not a good influence on her, she just "kind of stopped talking" to those friends. She stated that without the program, "I wouldn't have been able to communicate with, like anybody because I would've stayed to myself."

Sometimes young people who have committed offenses are themselves victims. A boy who took a knife to school talked about the importance of exploring the underlying causes for a young person's behavior. He explained:

Some kids are put into a situation they don't really like...they don't force it upon themselves...[but it is]

because high school is crazy.” [At private school] there is a community where it’s just like, you get to learn, you get to figure out who everyone is, there is no one who is left out. [But in public school] it’s almost like you’re treated...you’re on your own...and you either choose to stay with friends, or go off on your own, or just go out with bad people.

He explained that at the conference “it just showed me there was other ways” to take care of the problem and there were “ways to stay anonymous.” He was able to talk about his perspective because “they did very well on how they talked to me and how they got involved and just how they got to know me.” He felt that as a result of the CJC program, they are paying “more attention to kids at school now.” Another boy who brought a knife to school explained that it was because he was being bullied. He shared: “I felt like I needed to do it, but I know what I did wasn’t right.” He said that during the family group conference, it was “hard telling it in front of my priest [...because] I just wasn’t feeling proud of what I did.” However, after the conference he had a much better relationship with school administrators, he “talked” a lot more with the vice principal and got more involved in school. He said that “every time I see someone else with a pocket knife or something similar to it, I’m just like, I would suggest you not to, like, bring that. There’s other ways.”

### **III. Discussion**

The results of our study of the CJC program were consistent with other research studies on the effectiveness of restorative justice. Such research has demonstrated that restorative justice responds to concerns with the traditional juvenile justice process in several important ways. First and foremost, it reduces crime. Second, it is financially prudent as it reduces court costs and increases restitution to victims. Third, it gives victims agency and an important role in the process. Fourth, it is an effective means of teaching young people to take responsibility for the consequences of their behavior. Fifth, it recognizes the complexity of the behavior of young people and the critical need to heal the wounds that many of them have suffered as well as the harm done to victims. Recent scientific findings have given this final point special urgency.

#### *A. Crime Reduction*

There has been a lack of rigorous quantitative research on restorative justice approaches, but studies have documented reductions in recidivism when young people were diverted from court to restorative justice

programs.

Some research studies have found significant reductions in re-offending while others measured more modest decreases.<sup>22</sup> For example, youth who were processed through the Victim Offender Mediation program in Multnomah County, Oregon recidivated at a rate of 22% less than those processed through the court during a one year follow-up period (20% versus 42%).<sup>23</sup> In Australia, restorative justice conferencing has produced a reduction of 15% to 20% in re-offending across different offense types (regardless of gender, criminal history, age and ethnicity of offenders).<sup>24</sup> The RISE project in Australia found that juveniles participating in restorative justice conferencing decreased rates of recidivism by as much as 38% when compared to young people whose cases were processed through the courts (11% versus 49%).<sup>25</sup>

Moreover, while some studies found lower rates of recidivism for offenders diverted to restorative justice programs for both property and violent crimes, several studies found that restorative justice actually reduced reoffending more effectively with more, rather than less, serious crimes.<sup>26</sup> Even studies that did not seek to quantify the reductions in recidivism noted that restorative justice was able to positively address and mitigate the risk factors that increase the likelihood of an offender recidivating such as substance abuse, aggression, and poor disposition toward school.<sup>27</sup>

### B. Cost Effectiveness

Few studies have attempted to rigorously quantify the net savings that restorative justice has generated for the criminal justice system in this

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<sup>22</sup> Jeff Latimer, Craig Dowden & Danielle Muise, *The Effectiveness of Restorative Justice Practices: A Meta-Analysis*, 85 PRISON J. 127, 137 (2005); Lawrence W. Sherman & Heather Strang, *Restorative Justice: The Evidence*, SMITH INST. 1, 8 (2007), [http://www.iirp.edu/pdf/RJ\\_full\\_report.pdf](http://www.iirp.edu/pdf/RJ_full_report.pdf).

<sup>23</sup> MARK S. UMBREIT, ROBERT B. COATES & BETTY VOS, THE IMPACT OF RESTORATIVE JUSTICE CONFERENCING: A REVIEW OF 63 EMPIRICAL STUDIES IN 5 COUNTRIES 9 (Univ. of Minn. Ctr. for Restorative Just. & Peacemaking 2002), available at [https://www.researchgate.net/profile/Mark\\_Umbreit/](https://www.researchgate.net/profile/Mark_Umbreit/) (click "Research" hyperlink; then search "Restorative Justice Conferencing").

<sup>24</sup> See LAWRENCE SHERMAN, HEATHER STRANG & DANIEL WOODS, RECIDIVISM PATTERNS IN THE CANBERRA REINTEGRATIVE SHAMING EXPERIMENTS (RISE) (2000).

<sup>25</sup> *Id.*

<sup>26</sup> William Bradshaw & David Roseborough, *Restorative Justice Dialogue: The Impact of Mediation and Conferencing on Juvenile Recidivism*, 69 FED. PROB., Dec. 2005, at 17, available at <https://heinonline.org/HOL/P?h=hein.journals/fedpro69&i=69>.

<sup>27</sup> Kathleen J. Bergseth & Jeffrey A. Bouffard, *The Long-Term Impact of Restorative Justice Programming for Juvenile Offenders*, 35 J. CRIM. JUST. 433, 433-451 (2007).

country. The Restorative Community Conferencing program in Alameda County, California estimated that it saved \$37,922 per juvenile that it diverted from the county court system (at a cost of \$13,908 versus \$51,830).<sup>28</sup> A cost-effectiveness study evaluating a restorative justice program in Massachusetts found that restorative justice was nearly six times more cost-effective than the traditional criminal justice methods.<sup>29</sup> Other studies generally assert that the use of restorative justice to divert offenders from court generates substantial savings due to the time and resources that would otherwise be expended by law enforcement officials and the court.<sup>30</sup>

There is more abundant research on the cost effectiveness of restorative justice in countries that employ it more frequently than does the United States. The Restorative Resolutions program operating in North Wales, Australia saved the police an estimated 3,363 hours—valuated at \$150,090.80.<sup>31</sup> The Community Holistic Circle Healing Process in Hollow Water First Nation in Manitoba, Canada calculated that the program saved the province \$2,551,414 over 10 years—with a net savings to the federal government of \$1,261,317 over that same period of time.<sup>32</sup>

The emerging evidence of the positive impact of restorative justice on recidivism and cost-effectiveness is further supported by the reports of overwhelming participant satisfaction, the confidence of major law enforcement entities, and the support of the public.<sup>33</sup> In the aggregate, these

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<sup>28</sup> NAT'L COUNCIL ON CRIME & DELINQ., SCALING RESTORATIVE COMMUNITY CONFERENCING THROUGH A PAY FOR SUCCESS MODEL: A FEASIBILITY ASSESSMENT REPORT 13 (2015), [http://www.nccdglobal.org/sites/default/files/publication\\_pdf/tj-pfs-feasibility-report.pdf](http://www.nccdglobal.org/sites/default/files/publication_pdf/tj-pfs-feasibility-report.pdf).

<sup>29</sup> See William R. Nugent et al., *Participation in Victim-Offender Mediation and Reoffense: Successful Replications?*, 11 RES. SOC. WORK PRAC. 5, 5-23 (2001).

<sup>30</sup> Sherman & Strang, *supra* note 22, at 8.

<sup>31</sup> See HER MAJESTY'S INSPECTORATE OF CONSTABULARY (HMIC), HMI PROBATION, HMI PRISONS & HMC PROTECTIVE SERVICES INSPECTORATE, *Facing Up To Offending: Use of Restorative Justice in The Criminal Justice System*, CRIM. JUST. JOINT INSPECTION 22 (Sept. 2012) (noting that over the course of a year, the Restorative Resolutions saved North Wales Police "an estimated 3,363 hours, with a re-investable cash equivalent of £94,602."). On September 1, 2012, around the time the report was published, the exchange rate from British Pounds to US Dollars was 1.31, meaning the £94,602 that the Wales police saved was valued at \$150,090.80. See Current and Historical Rate Tables, XE.COM, <https://www.xe.com/currencytables/?from=GBP&date=2012-09-03> (last visited July 1, 2018).

<sup>32</sup> NATIVE COUNSELLING SERVS. OF ALTA., A COST-BENEFIT ANALYSIS OF HOLLOW WATER'S COMMUNITY HOLISTIC CIRCLE HEALING PROCESS 73 (2001), <https://www.publicsafety.gc.ca/cnt/rsrscs/pblctns/cst-bnft-hllw-wtr/index-en.aspx?wbdisable=true> (figures are in Canadian dollars).

<sup>33</sup> See UMBREIT, COATES & VOS, *supra* note 23.

yet to be quantified benefits are important, because they contribute to the perception of the legitimacy and effectiveness of a well-functioning alternative to the existing criminal justice system.

### *C. Restorative Justice as a Trauma Informed Intervention*

Research in the last twenty years has demonstrated that early trauma, also known as Adverse Childhood Experiences (ACEs) are the origin of several “social, emotional, physical, and cognitive impairments.”<sup>34</sup> The original studies focused on experiences such as neglect, abuse, and violence, but researchers are now including poverty, extreme discrimination, and community violence as factors.<sup>35</sup> The trauma associated with ACEs contributes to the development of toxic stress or the constant activation of the stress response.<sup>36</sup> High levels of stress hormone place a burden on other biological systems and can disrupt nervous and hormone regulatory systems.<sup>37</sup> Such changes often impact physical, emotional and intellectual development, and interfere with a child’s ability to think and learn.<sup>38</sup>

Fortunately, trauma-informed interventions have been shown to mitigate the impact of these disruptions. Such interventions seek to understand the complexity of past trauma that both offenders and victims may have experienced, avoid re-traumatization, and support recovery as well as the development of resilience.<sup>39</sup> Such interventions share many of the principles and practices of restorative justice.

A brief overview of the science may be helpful in understanding the

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<sup>34</sup> ILL. ACES RESPONSE COLLABORATIVE & HEALTH & MED. POL’Y RES. GROUP, JUSTICE BRIEF: JUVENILE AND CRIMINAL JUSTICE SYSTEMS 1, <http://www.hmprg.org/assets/root/ACEs/Justice%20Policy%20Brief.pdf> (last visited Feb. 18, 2018).

<sup>35</sup> *Id.*

<sup>36</sup> NAT’L CTR. FOR MENTAL HEALTH AND JUV. JUST., TRAUMA AMONG YOUTH IN THE JUVENILE JUSTICE SYSTEM 1 (Sep. 2016), <https://www.ncmhjj.com/wp-content/uploads/2016/09/Trauma-Among-Youth-in-the-Juvenile-Justice-System-for-WEBSITE.pdf>.

<sup>37</sup> D. HURLEY SWAYZE & D. BUSKOVICK, YOUTH IN MINNESOTA CORRECTIONAL FACILITIES AND ADVERSE CHILDHOOD EXPERIENCES: RESPONSES TO THE 2013 MINNESOTA STUDENT SURVEY 9 (Minn. Dep’t of Pub. Safety Office of Just. Prog. May 2015), [https://dps.mn.gov/divisions/ojp/forms-documents/Documents/2013%20CKR\\_ACES\\_FINAL.pdf](https://dps.mn.gov/divisions/ojp/forms-documents/Documents/2013%20CKR_ACES_FINAL.pdf).

<sup>38</sup> *Id.*

<sup>39</sup> Melanie Randall & Lori Haskell, *Trauma-Informed Approaches to Law: Why Restorative Justice Must Understand Trauma and Psychological Coping*, 36 DALHOUSIE L.J. 501, 517-18 (2013).



need for a more informed perspective on juvenile justice. During puberty changes occur in the limbic system that increase sensation-seeking behavior and amplify a willingness to take risks.<sup>40</sup> Concurrently, neurological development in the prefrontal cortex is responsible for response inhibition, planning, weighing risks and rewards, and contemplating multiple sources of information simultaneously.<sup>41</sup> During adolescence self-regulation develops as connections between the limbic system and the prefrontal cortex become more coordinated.<sup>42</sup> Traumatic experiences during development may result in the overdevelopment of the limbic system structures at the expense of prefrontal cortex maturation and thus can impair self-regulation.<sup>43</sup> Common manifestations of poor self-regulation include delinquency, interpersonal violence, substance use, self-harm, and suicide ideation or attempts.<sup>44</sup>

These maladaptive responses increase the likelihood that youth exposed to traumatic events will become involved with the juvenile justice system. It is unsurprising that while it is estimated that 25-34% of children in the U.S experience one ACE, 75-93% of those in the juvenile justice system report at least one exposure.<sup>45</sup> In addition, this population is more likely to experience trauma while in custody.

Because restorative justice focuses on repairing relationships by attempting to heal the harm, promote accountability, and encourage victim and community participation, it can serve as a natural vehicle for trauma-informed interventions.<sup>46</sup> Restorative justice focuses on the concept that crime harms so justice should heal, thus making it particularly compatible with trauma-informed perspectives.<sup>47</sup> Restorative justice benefits not only offenders by rebuilding disrupted attachments<sup>48</sup> but also reduces the trauma experienced by victims,<sup>49</sup> and helps heal the community.<sup>50</sup>

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<sup>40</sup> Michelle Evans-Chase, *Addressing Trauma and Psychosocial Development in Juvenile Justice-Involved Youth: A Synthesis of the Developmental Neuroscience, Juvenile Justice and Trauma Literature*, 3 *LAWS* 744, 745 (2014).

<sup>41</sup> *Id.* at 749.

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

<sup>45</sup> SWAYZE & BUSKOVICK, *supra* note 37, at 12.

<sup>46</sup> Randall & Haskell, *supra* note 39, at 519.

<sup>47</sup> *Id.* at 520.

<sup>48</sup> *Id.* at 528.

<sup>49</sup> *Id.* at 524.

<sup>50</sup> *Id.* at 529.

### **Conclusion**

By both quantitative and qualitative measures, the CJC program was found to be a highly successful and cost-effective program that significantly reduced recidivism, provided additional funds for impacted victims, and met the needs of victims as well as the young offenders and their families. Such results were consistent with previous research on the efficacy of restorative justice. The success of the CJC program, particularly when compared with the traditional juvenile justice system, demonstrates the need for the development of new restorative justice programs and the expansion of existing programs.