

ARTICLE

# Survivor-victim perspectives on the possibility of restorative justice conferencing after sexual assault

Kate Chisholm and Mary Koss\*

## Abstract

*Many have called to hear directly from the survivor-victim (SV) of sexual violence regarding their wants and needs after enduring this harmful experience. We previously reported on broad SV needs, perceptions of the extent needs are met, and criminal legal system (CLS) experiences. This qualitative study used the same sample (N = 11 CLS utilisers and 10 non-utilisers). After an overview of criminal, civil and restorative justice models, participants viewed a brief presentation on restorative justice conferencing. Following it, all participants were asked about their reactions to restorative justice conferencing. The analytic approach used computer-assisted qualitative data (CAQDA) analysis and ATLAS.ti software. The major finding was that reactions to restorative justice conferencing were mixed and were linked with prior CLS experiences and crime characteristics. A convergence of opinion unfolded wherein initial detractors became more positive about how restorative justice conferencing could help some people, if not themselves. Despite hesitancy or insufficient knowledge to fully endorse restorative justice conferencing as an avenue to improve CLS experience, ultimately all SVs believed it should be an available option. The results have implications for broader education on restorative justice in communities to support implementation of alternative justice options, particularly restorative justice conferencing.*

**Keywords:** sexual assault, restorative justice, conferencing, rape survivors, rape justice.

## 1 Introduction

Ending sexual violence, mitigating negative outcomes and strengthening community response enforcement are important responses to support survivor-victims' (SVs) social, mental and physical health (CDC, 2016). SVs of

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sexual violence infrequently report to the criminal legal system (CLS) and those who do often describe being further harmed, revictimised and traumatised by this experience (Maier, 2008). The consequences of sexual violence are often life-altering. Nevertheless, many SVs are underserved by community programmes that along with justice comprise the coordinated community response to sexual violence (Bach et al., 2021). Past research highlights why many SVs elect not to participate in the criminal process (RAINN, 2023; Smith & Freyd, 2014), but little is known about what alternative pathways SVs would find beneficial. Restorative justice for sexual violence is one such alternative pathway for SV. While there are differing perspectives in the U.S. literature on restorative justice, ranging from concerns that it would harm SVs to the perspective that it is direly needed, particularly for SVs in marginalised communities, little has been heard directly from SVs about their views on restorative justice. This project seeks to determine how SVs view restorative justice conferencing models in the context of their justice needs. This study consisted of 21 male, female, and non-binary SVs living primarily in the Phoenix, Arizona, area who experienced sexual assault at some point in their lives. Phoenix is the fifth largest metropolitan area in the U.S. Participants engaged in focus groups about their perspectives on CLS interactions, restorative justice conferencing alternatives, and their broader recovery needs. This article reports on participants' perspectives on restorative justice conferencing.

### **1.1 Background**

Restorative justice is an innovative alternative to conventional justice that falls more in alignment with established literature on the justice goals of SV (Daly, 2011; Koss, 2010). Restorative justice is a justice-seeking mechanism that focuses on accountability and repairing harm as opposed to assigning blame and imposing punishment that generally subsume the process of the CLS (Daly, 2011; Koss, 2010). Restorative justice acknowledges that the harm caused by the person responsible affects not just the SVs but also the whole community, including friends and family of SVs and society. Restorative justice focuses on the relationship between the SV and the perpetrator, family and friends, and the community, which cannot happen in a system where SVs are merely witnesses and therefore a means to an end (Daly, 2011; Koss, 2010). Restorative justice is an umbrella term for approaches that attempt to repair harm and focus on accountability. Programmes can range from community circles, victim impact panels, victim-offender dialogues and facilitated conferences (Daly, 2011; Koss, 2010).

Conferencing is considered by some to be the fullest manifestation of restorative principles (Koss, 2014; Koss, Wilgus & Williamsen, 2014; Naylor, 2010). For this reason, restorative justice conferencing was the focus in this study. It involves a facilitated meeting between the SV, person responsible for wrongdoing, and often their friends and family. The meeting is intended to accomplish the following: acknowledging the responsibility for causing harm; SV voicing the range of reactions and impacts they have experienced as a result; family and friends speaking, if desired, on their own feelings as secondary victims; and, in some cases, community members articulating the ripple effects. These steps lay the foundation for developing a plan for reparations and rehabilitation (Koss et al., 2014; Naylor,

2010). The focus of restorative justice conferencing is not centred on establishing blame; instead, it deliberates on how to best repair the harm the person responsible acknowledges causing. It is intended to be more flexible than conventional systems, centring SV goals and providing them with greater control of the justice process (Daly, 2017; Koss, 2014; Koss et al., 2014; Naylor, 2010).

SVs have stated that their justice interests are important to their recovery, along with survival interests, such as safety, that restorative justice does not directly seek to achieve (Daly, 2017b); Koss, 2014). Scholars have sometimes argued that justice interests are secondary to SVs' survival interests (Koss, 2014). Some of the justice outcomes that SVs seek have been documented in restorative justice literature, which include participation, voice, validation, vindication and offender accountability-taking responsibility (Daly, 2017b). These are some of the goals that conferencing seeks to achieve. SVs focused on justice interests are theoretically able to achieve these interests within the context of restorative justice conferencing. SVs can be active participants in the restorative justice process to their comfort and may authorise a surrogate to attend restorative justice meetings in their place. They are given voice during the process to explain the impact the violence has had on them. Their experiences are validated throughout the process by those who facilitate the process and potentially others who are present, and they experience vindication by impacted community members who hear and validate their experience. Finally, the offender must take accountability and responsibility for causing harm for restorative justice to be suitable to each party. In alignment with these justice interests, SVs also have been found to describe their justice interests as consequences, recognition, dignity, voice, prevention and connectedness (McGlynn, 2019). Whereas restorative justice offers many of these justice interests, the traditional CLS does not typically seek these apart from consequences for the offender, where the SV is seen as a witness for the state with little agency throughout the criminal proceedings (Koss, 2014). The gap between what the legal system offers to SVs and what justice interests they seek is referred to as the justice gap (Keenan & Zinsstag, 2022; McGlynn, 2019). Restorative justice is considered by many to be an important option for SVs to fill this 'justice gap' (Keenan & Zinsstag, 2022).

At the same time, conferencing aspires to be a respectful process that operates within the guaranteed rights of both the SV and the person responsible, with outcomes that are perceived as proportional and reasonable by all parties. These goals blend restorative justice aspirations with mandated victims' rights and the accused's due process. Additionally, an approach perceived as fair is essential to SV satisfaction and wrongdoer compliance with imposed accountability activities (Koss, 2014). The overall goal of restorative justice conferencing is to be a full, non-adversarial resolution for all parties involved (Koss, 2014). It is not appropriate in all cases, such as with excessively violent or serial crimes, but the majority of sexual assault is not highly violent as displayed by physical trauma, and frequently involves people who know each other (Koss, 2014). It can be argued that sexual violence is the most personal of violations given that it most often involves acquaintances, is ill-suited to courtroom formalities and is unsuitable for

accessibility by the general public who may be motivated by prurient interests (Koss, 2014).

There is debate among scholars and practitioners regarding the proper implementation of restorative justice and whether it should be implemented as part of or loosely adjacent to the CLS or whether it should be an option at all. Critics of carceral feminism and abolitionists often advocate for the separation of restorative justice from the CLS entirely because the process of restorative justice has the potential to fundamentally challenge the punitive and retributive nature of the CLS which can be argued as causing more harm to communities and offenders without a rehabilitative component that prevents offender recidivism (Daly, 2006a; Godden-Rasul, 2017; Pali, 2017). Not only could an independent process of restorative justice sidestep the harmful aspects of the CLS for both the SV and the offender, but many argue that keeping restorative justice separate from the CLS can lead to SV empowerment and community healing and can address the root cause of the violent behaviour rather than perpetuate structural and systemic inequities (Koss, 2014; Pali, 2017). Given that only 30 per cent of SVs report sexual violence to the CLS in the U.S., many of whom do not report due to the belief that the police cannot or will not do anything to help them (RAINN, 2023), it is important to consider alternative pathways that are accessible to the many SVs who do not see reporting as a legitimate option in order to empower them after being violated by the inherently disempowering act of sexual violence. Several studies have demonstrated that restorative justice can achieve SV empowerment and community healing as well as reduce recidivism (Koss, 2014; Mariani, 2021; Moore, Keenan, Moss & Scotland, 2021; Zinsstag & Vanfraechem, 2012).

The ideology of restorative justice within carceral feminism, though not universally shared, leads many to advocate to address gender-based violence solely through the existing CLS. Through this lens there are often concerns regarding restorative justice, including a lack of support for restorative justice for sexual violence entirely, or minimally, and a belief that it is best practiced in conjunction with the CLS (Deer & Barefoot, 2019; Stubbs, 2010). Concerns regarding restorative justice and gender-based violence stem from concerns of safety for SVs and the community; power imbalances and coercion that may negatively impact SV throughout the process; and insufficient structures, support and resources to promote safe and effective restorative justice programming (Keenan & Zinsstag, 2014). Some believe that restorative justice alone will not stop an offender from reoffending or keep the offender away from society where they could then cause further harm to others (Keenan & Zinsstag, 2014; Stubbs, 2003). Additionally, opponents of restorative justice have concerns that SVs do not have equal footing in the power dynamic against the offender in restorative justice. Some believe that SVs can be coerced into participating, may not have equal support from the community or may be re-traumatised by participating if the offender participates disingenuously (Keenan & Zinsstag, 2014; Koss, 2014; Stubbs, 2003). While these concerns raise important considerations to the safe and effective implementation of restorative justice, it is important to recall that many SVs report being further traumatised by the CLS (Smith & Freyd, 2014); few offenders (2.5 per cent) are incarcerated for sexual violence in the U.S. (RAINN, 2023); and there is literature

to support safe and effective restorative justice processes for sexual violence (Daly, 2006; Jülich, Buttle, Cummins & Freeborn, 2010; Koss, 2014).

It is possible to combine restorative justice and the CLS. The RESTORE programme, a peer-reviewed, mixed-methods evaluation study on a restorative justice conferencing programme in the U.S. worked with prosecutor-referred sex crimes to implement restorative justice for misdemeanour crimes (Koss, 2014). The programme demonstrated an increase in SVs' feelings of empowerment and showed favourable outcomes for offenders (Koss, 2014). However, this referral stream was limited by the fact that most SVs do not report to law enforcement (RAINN, 2023). This model provided a pathway to restorative justice through the CLS in the U.S., while projects in other countries have initiated restorative justice processes at standalone community centres separate from the CLS.

Restorative justice conferencing for sexual crimes has been explored in some countries (Daly, 2011; Jülich & Landon, 2017; Koss, 2010; Martin, 2005; Moore et al., 2021; Loff, Naylor & Bishop, 2019). To explore some of these projects focused specifically on sexual violence, Project Restore NZ has published predominately qualitative case studies demonstrating successful outcomes for a variety of restorative justice practices through victim service centres that do not necessarily involve or run concurrently to criminal processes, although referrals from prosecutors are accepted (Daly, 2006; Koss, 2014). Many of the SVs who voluntarily seek services are adult survivors of child sexual abuse. A restorative justice conferencing programme based in Melbourne, Australia recently disseminated a technical report, although not peer-reviewed, supporting positive outcomes of restorative justice conferencing for sex crimes including SVs' sense of empowerment and control (Gage, Loff, Naylor & Bishop, 2019). In addition, a community-based restorative justice conferencing programme for domestic violence piloted in California, The CHAT Project, demonstrates significant support from a variety of community agencies and an ability to operate entirely separately from the law enforcement (Kim, 2022).

While restorative justice conferencing has been adopted slightly more readily in Australia and New Zealand and has proven beneficial to SVs in these limited studies, it has been primarily applied to juvenile crime. For sex crimes involving adults in particular, there is a heavy pressure to retain resolution of sexual violence within the CLS. In the U.S., the coordinated community response design imposed by legislation (i.e. Violence Against Women Act) positions victim support agencies as feeders into the CLS. After years of shaping funding availability to activities useful to the CLS (e.g. forensic exams), advocates' views of themselves as service providers have become allied with CLS as an indicator that sexual violence is being taken seriously and consequences for perpetrators are imposed (Jülich & Landon, 2017; Koss, 2014). None of these assumptions are supported by data on CLS performance in multiple countries (Daly & Bouhours, 2010).

Restorative justice conferencing is not currently available in the U.S. through community-based rape crisis centres (RCC) or apart from the CLS (Jülich & Landon, 2017; Keenan, 2014). Restorative justice has been used sparingly in U.S. college campuses in response to conduct code violations involving sexual behaviour, but the circles method as opposed to restorative justice conferencing is the standard

approach (Jacoby, 2022). There is limited data about whether or not SVs in the U.S. are aware of restorative justice and whether there is demand for such programming, although results were favourable in a recently conducted similar project in Scotland, Survivors Voice (Moore et al., 2021). The purpose of the present study was to listen to SVs' reaction to restorative justice conferencing resolution of sex crimes in the expectation that their input might guide the field towards adoption of restorative justice in general and restorative justice conferencing in particular.

## 2 Methods

### 2.1 Participants

Adult (18+) SVs of sexual assault volunteered in response to a flyer sent electronically to various community-based and system-based victim service provider organisations, activist groups and others on the state coalition's listserv throughout Arizona. Participants were included if they were older than 18 years of age, were a survivor of at least one instance of sexual assault whether in adulthood or childhood, and they lived in or were able to receive services within the greater metropolitan Phoenix area. The recruitment survey also served as a tool to collect demographic information about study participants. Out of 39 respondents, 37 met the criteria for participation. The researcher contacted potential participants through their preferred method of communication. Of those, 22 were able to be reached and selected a date and time for the verbal consent process. All but one of them completed participation. Thus, 21 persons participated in one of 7 focus groups, each of which had an average of 3 participants per focus group utilising standard focus group methodology.

### 2.2 Procedures

Focus groups were conducted over Zoom by the first author. SVs shared demographic information and limited information about their experiences with sexual assault in the screening and recruitment survey. Participants were assigned to groups based on whether or not they reported to the CLS. Participants who reported to CLS were asked additional questions in addition to those focused on restorative justice conferencing that were administered to every participant. Participants were given the option to leave their cameras on or off and to change their Zoom name in advance to protect their privacy. Prior to beginning dialogue, participants watched a short (2-minute) video that explained the difference between the procedures and overarching goals of criminal, civil and restorative justice, but largely included information for participants about their right to participate to their comfort level and emotional support resources available if needed. Participants then watched a brief PowerPoint presentation that described one restorative justice approach (conferencing) that could operate either within the CLS or through service agencies. The brief presentation consisted of few slides that included a brief synopsis of restorative justice conferencing process, the justice outcomes that restorative justice seeks (Daly, 2011), who is involved in the restorative justice conferencing process, and the knowledge that restorative justice

conferencing should not happen without the willing and informed consent of any SV. The information was given in plain language and did not include talks of paradigmatic versions of justice for the purpose of succinctly explaining a concept that was new to many participants. It is important to note that none of the participants had previously been a participant in restorative justice and many had not heard of the process in the past.

Participants introduced themselves and agreed to a few ground rules regarding privacy and respect. They were reminded that they were not required to share any part of their assault but could do so if they felt comfortable. Participants were also made aware that a trained advocate was available by phone or in a separate Zoom room if they needed to speak with someone immediately. They were given mental health resources and the number for the National Sexual Assault Hotline and were encouraged to take breaks to utilise these resources if needed. Focus groups ranged from 90 minutes to 120 minutes. Participants were given \$15 gift cards to a grocery store of their choice for their participation. The discussions were audio-recorded and stored in a password-protected online drive acceptable to the Institutional Review Board of the University of Arizona, which approved and monitored the ethical conduct of the study.

### **2.3 COVID-19 protocols**

Protocols during the COVID-19 pandemic were utilised to ensure safety of all participants. Due to the COVID-19 pandemic, all consent procedures and focus groups took place online via Zoom.

### **2.4 Data analysis**

Audio recordings were transcribed and de-identified by the researcher. Pseudonyms were used to protect participant's privacy. Braun and Clarke's thematic analysis method was used to analyse the transcripts. An inductive approach was used to explore new meanings. Three researchers – all doctoral candidates or holding doctoral degrees and expertise in sexual assault research – read transcripts, and each created a preliminary code list. The first author created a draft codebook based on each individual's input. The coders then tested the codebook independently on one transcript and made changes to create a second and final codebook. This codebook was then used independently by each of the researchers to rate all of the transcripts. Thus, the narratives of each participant received three independent ratings. The first author reviewed the coding for consistency and resolved conflicts. Coding and analysis utilised ATLAS.ti version 9 qualitative analysis software. Researchers came together after all transcripts were coded to finalise main themes and subthemes, resulting in a triangulated analysis.

### **2.5 Demographic characteristics**

Table 1 summarises the demographic characteristics of the focus group participants. SVs were between 22 and 73 years of age and included 3 participants who identified as using he/him pronouns, 16 she/her, 1 they/them, and 1 who preferred not to say. With respect to racial diversity, 15 identified as Caucasian, 2 as Black/African American, 1 Asian American/Pacific Islander, 1 Native American, 1 of mixed race,

and 1 preferred not to say. With respect to ethnicity, 4 SVs identified as being Hispanic/Latinx. SVs had a diverse range of completed education levels, ranging from high school degrees or had earned equivalency certificates to professional or doctoral degrees. About half reported (N = 11) to the criminal system, and half did not (N = 10). Describing their relationship to the person or people who sexually assaulted them, 1 was assaulted by a stranger, 9 were assaulted by someone they knew, 3 were assaulted by an intimate partner, 7 had a mix of assailants due to multiple experiences, and 1 had an experience that they perceived as not fitting to any of these categories.

**Table 1** *Characteristics of the study population*

<b>Study Population (N = 21)</b>	<b>Number</b>
<b>Pronouns</b>	
He/Him	3
She/Her	16
They/Them	1
Prefer not to say	1
<b>Race</b>	
Black or African American	2
Asian/Pacific Islander	1
Caucasian	15
Native American	1
Mixed Race	1
Prefer not to say	1
<b>Ethnicity</b>	
Hispanic/Latinx	4
Non-Hispanic/Latinx	17
<b>Age Range</b>	
18-24	1
25-34	3
35-44	5
45-54	5
55-64	6
65+	1



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**Table 1** (Continued)

<b>Study Population (N = 21)</b>	<b>Number</b>
<b>Education</b>	
High school or equivalent	3
Associate degree	1
Some college, no degree	5
Bachelor's degree	5
Master's degree	3
Doctorate or professional degree	2
Prefer not to say	2
<b>Reporting Status</b>	
Reported	11
Did not report	10
<b>Offender Relationship</b>	
Stranger	1
Someone I knew	9
Intimate partner	3
A mix due to multiple experiences	7
Other	1

### 3 Results

The narratives were rich and nuanced, supporting the numerous themes and subthemes that were coded. For purposes of communicating the major findings, they are organised by an overarching theme. The tables linked to each section of results are titled by the major theme and list the specific codes applied by raters, the definition of that code and a representative narrative that was subsumed under the code.

#### 3.1 Restorative justice perceptions

SVs had varied thoughts and opinions on restorative justice conferencing after being presented with a short presentation on differences from adversarial processes and how the conferencing method works. The majority of participants were unfamiliar with restorative justice and pointed out benefits and drawbacks that they saw in having restorative justice conferencing as an option. Some SVs had positive perceptions of restorative justice conferencing, while others initially had negative perceptions and concerns. Several of the negative perceptions and concerns stemmed from misconceptions about restorative justice conferencing as opposed to adversarial justice and about the details of how a conferencing

programme operates. Some SVs had conflicting feelings, finding both positive and negative aspects to restorative justice conferencing. Perceptions changed for a number of SVs throughout the course of the focus group discussions. Many remained uncertain about a restorative justice conferencing option for their own case but through dialogue came to appreciate its potential value for other SVs. SVs had varied ideas about where and how they would want to participate in restorative justice conferencing and had many questions about logistics. These results are summarised in Tables 3, 4 and 5.

### ***3.2 Positive perceptions of restorative justice conferencing***

SVs with positive perceptions of restorative justice conferencing cited potential satisfaction of known justice interests, including non-adversarial process. Participants proposed that this could be a positive alternative to the CLS for many reasons. The codes that elaborate these positive perceptions of restorative justice conferencing are presented in Table 2 and are discussed in the material that follows the table.

SVs cited known justice interests of voice, validation, vindication, participation, and offender accountability-taking responsibility as potential positive outcomes. Several SVs felt that being able to speak with the person responsible in a controlled setting would be helpful to them. One SV clearly stated her desire to have a voice in restorative justice conferencing and how it would have been helpful to her. Another SV echoed this thought, emphasising her desire to tell the person responsible how their choices impacted her. Struck by the possibility of being able to say anything she was unable to say while she was being assaulted, another SV believed that the ability to face the person responsible would assist in resolving trauma. Other SVs who were interested in restorative justice conferencing expressed positive feelings that were rooted in a longstanding desire to confront the offender with others present.

I think me in the past really would have been passionate about pursuing restorative justice and confronting the person who attacked me directly in a formal place where I was in control of the experience and was able to communicate more directly how this person affected me – Katie

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**Table 2** *Positive perceptions of restorative justice conferences*

<b>Code</b>	<b>Number of Times Code Used</b>	<b>Definition</b>	<b>In Their Words...</b>
SVs	131	SVs found RJs as potentially meaningful for their interest in having voice, validation, participation, vindication, and offender responsibility-taking accountability in a justice process.	<p>'I see it as it would have given me a voice, an opportunity to say what I needed to and tell them exactly how their actions affected me, and those others in my life as well, because of their choices.' – Emma</p> <p>'Being able to actually now say something could really help with re-patterning the brain and releasing the trauma that stays stuck inside of the body when these events happen and they freeze up inside of us.' – Veronica</p> <p>'It gives you the sense of closure, because many times, you have the sense of "this is my fault somehow."' – Teresa</p> <p>'...that the community would acknowledge the harm, that feels like that would be really worthwhile to me to have the community acknowledge the harm, that could be really good, and so I would definitely give the idea of the programme existing as an option.' – Lisa</p> <p>'Part of that healing process of holding people accountable, I wish I could do it, but part of that healing process for holding people accountable, in my opinion, is actually watching them take accountability.' – Sarah</p>
	48	RJC perceived as positive and providing fairness without fault-finding.	<p>'I think what appeals to me with that system or approach is that it makes it about the victim and not about finding fault with the perpetrator.' – Emma</p>

**Table 2** (Continued)

<b>Code</b>	<b>Number of Times Code Used</b>	<b>Definition</b>	<b>In Their Words...</b>
Positive	113	RJC seen as opportunity for direct communication with the wrongdoer, answers to SV's questions, overall empowerment, safety and supportiveness.	'I think another reason why I didn't come forward about a lot of things that happened was because again, I didn't want to see any of these people being put away, I didn't want to see them being handled by police, I didn't want to see them being punished in the courtroom. I didn't want to see them being hurt.... I think it would have just been re-traumatizing.' – Flecha '...And I think even at that age, that was more important to me than the thought of ever being in a courtroom. I didn't even consider that because, you know, it just, that was such an intimidating system at the time, even not knowing what I knew then.' – Lauren
Viewed with	47	SVs would want an RJC option available for others even if it wasn't seen as viable for themselves.	'... I definitely think that having a programme like restorative justice for other people would be amazing because I know some people, they don't necessarily want to press charges, but they still want some sort of closure or some sort of conversation.' – Arabella 'Like I can't see any way that that could be helpful really at all, honestly, and I don't mean that in a negative, disparaging way. I have to try and imagine maybe what other people's experiences are like, because for me it just, it wouldn't really make sense. Or maybe someday, years in the future, my child wanted to address his abuser, then maybe that would be an avenue for him.' – Shelly

In addition to the benefit of having a voice in speaking with the offender, SVs expressed that having their experiences validated would be personally beneficial. SVs noted that validation of their experiences would help to ameliorate some of their negative coping, including feeling like what happened to them was their fault, that it was not really happening or that the whole thing was a 'nightmare'. Vindication was also a notable aspect of restorative justice conferencing for the SVs who viewed it positively. Participation was also important to SVs. They viewed restorative justice conferencing as an opportunity to be actively involved in decisions, rather than a witness with little agency, as they would be in the CLS. SVs envisioned the benefit to their well-being through such participation. SVs felt

accountability from the perpetrator was important. One SV aligned accountability with healing. Many SVs also expressed that if the offender would acknowledge harm, the potential for healing and other positive outcomes would be synergised. Some SVs valued the non-adversarial approach that characterises a restorative justice conference. Many SVs spoke of being exhausted by continually having to defend themselves in the CLS process and felt that the conference approach could focus more on wellness than on the constant fight to get others to believe them. One SV specifically stated that she appreciated that the approach is about the survivor and not spent determining the fault of the perpetrator. Restorative justice conferencing was also viewed as a potentially positive alternative to the CLS. SVs spoke of restorative justice conferencing goals being more in alignment with their own than the outcomes offered by the CLS and as an avenue to avoid being personally re-traumatised. Another SV, who had been assaulted as a teenager, did not report the incident due to fear of the CLS and believed that restorative justice conferencing would have been a better option. One SV preferred restorative justice conferencing for a betterment of community life by avoiding carceral consequences for wrongdoers they cared for, despite the harm caused by the wrongdoers. Another SV felt a restorative justice approach in general could contribute to deeper levels of community healing.

The basis of, I think what restorative justice is, is really about helping to facilitate a deeper level of healing that is not just put somebody in jail. That could be part of it, but there's more to it. – Veronica

### ***3.3 Negative perceptions of restorative justice conferencing***

Table 3 elaborates on the concerns that SVs had about restorative justice conferencing. Many concerns were misconceptions, but they highlight how SVs were thinking at that point in time. Several SVs cited concerns that restorative justice conferencing would be too lenient on offenders and could not imagine what would constitute a meaningful consequence after experiencing the harm they endured. Others spoke of the potential for unequal power dynamics or peer pressure for participation that negatively impacted their view of restorative justice conferencing. Some SVs felt restorative justice conferencing would have been unhelpful in their own cases and were uncertain it should be implemented. Some SVs mistrusted all justice processes and systems. Others contrasted restorative justice conferencing with a 'unilateral' justice model that excluded the wrongdoer and surrounded the SV with supporters. These results are summarised in Table 3 and discussed in the text that follows.

**Table 3** *Negative perceptions and concerns of restorative justice conferencing*

<b>Code</b>	<b>Number of Times Code Used</b>	<b>Definition</b>	<b>In Their Words...</b>
RJC	120	SVs would not want to participate due to reasons that would typically be considered exclusionary criteria for participation, which also include the prospect of their facing violent or serial offenders.	‘Well obviously for myself, my situation, it was ... I would never go into something, it would just create a more dangerous situation.’ – Justina ‘Just the fact that the perpetrator would have to be a willing participant, and it just seems like a lot of predators, perpetrators would not even do that, I guess, maybe unless they’re being offered a deal, like, “We’re not gonna prosecute you criminally if you go through this process,” or something like that. I guess just for me, I can’t imagine ... I don’t think it would work for me at all.’ – Shelly
RJC too lenient	27	SVs’ belief that RJC is too lenient or lacks meaningful consequences for the offender.	‘You know ... it’s hard to just say “Yes, I would want to go do that;” because ... it almost sounds too easy for them.’ – Marie ‘I was waiting until marriage to have sex, and then I was raped in high school, and there’s just ... There’s nothing ... That guy could come to me on his hands and knees saying that he found God and he’s so sorry and everything ... , but there is nothing that he could ever do to make that right.’ –Brittani
RJC power	26	SVs feeling concern about perceived multiple power imbalances: SV-offender, SV-system, and SV-community members.	‘You have an adult in some cases abusing a child. There’s an unequal relationship.... You come in as an individual facing a huge institution. It’s not an equal process.’ – Tim

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**Table 3** (Continued)

<b>Code</b>	<b>Number of Times Code Used</b>	<b>Definition</b>	<b>In Their Words...</b>
RJC	36	SVs concerns over feeling pressured to participate unwillingly.	<p>'...I would want to be really careful that it doesn't put the burden on the victim. It becomes almost ... If someone is a certain personality, the personality to please, it becomes almost an obligation that, "Well, you would participate in this programme, right? It's a good thing. It's the right thing. It's gonna be helpful to everybody," – Lisa</p> <p>'And I hope sometimes, too, a lot of survivors don't feel that guilt if this restorative justice comes to be, and it's somewhat prevalent as an option. I hope survivors don't look and go, "Oh gosh, I feel so horrible because I should have been a nicer person," you know what I'm saying?' – Mike</p>
RJC	65	SVs feeling that RJC would not benefit them for any reason or holding a preference to CLS.	<p>'...I don't think I would have done the restorative justice....Also, a lot of people in my family don't even really know what has happened to me, so then I'd have to tell all my friends and family if I wanted them to come with me or something....' – Arabella</p> <p>'...individuals who are victims of sexual assault don't report it. We know why they don't report it, it's not rocket science, it's the human psyche. It's shame, it's fear, it's the fall out, it's the trauma. So this could not really be beneficial, I'm looking in terms of victim beneficiality.' – Sarah</p>

**Table 3** (Continued)

<b>Code</b>	<b>Number of Times Code Used</b>	<b>Definition</b>	<b>In Their Words...</b>
RJC	36	SVs are undecided or uncertain about overall thoughts on RJ.	'I have to say that when I first heard the concept, I said, "Absolutely not. My perpetrator does not deserve a second of my time. I'm not gonna sit by them and breathe the same oxygen. They don't deserve it." ... But there's also this part of me that would like to believe that this is more positive for our world than putting people in jail.' – Lisa
Mistrust	31	SVs lacked trust in the process of RJC or the people involved to meet SV interests.	'The thought of getting to this restorative justice thing is just like, I mean, that just seems like a whole 'nother level when step one through ten is already completely broken and not working at all.' – Shelly 'There's too many abuses in the criminal justice system that I endured myself. I don't think I would be that strong of an advocate to be a part like that. I don't want go through it.' – Gail 'Even if it's a legal agreement, you know how many times they break? ... What I have learned about all of that is it's just a piece of paper. Nobody follows agreements, nobody follows court orders, nobody gets accountable for anything.' – Teresa

SVs commonly cited restorative justice conferencing as being unsafe or harmful for reasons that would have, in actual implemented programmes, excluded an offender from participating in a restorative justice conferencing option, especially those offenders with a long and varied criminal record; for example, serial offending, violent rapes or histories of domestic violence and CLS involvement. Although as scholars and programme designers we may see these statements as misconceptions, they highlight how SVs were thinking.

For example, one SV assaulted in her marriage shared that she would be unable to participate due to the extreme and repetitive violence and manipulation that she experienced at the hands of her perpetrator. Another SV going through family court in a marital situation shared that restorative justice would be traumatic in her situation and also worried that the person responsible might not participate unless they were being offered leniency in a criminal context. These SVs were concerned about what would happen to an offender who was unwilling to participate. This perspective was most common in family court situations, marital sexual assaults, or sexual assaults involving institutions such as churches. Many SVs expressed fear of the person responsible. They were concerned that the person



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or people who raped them would be unlikely or unable to acknowledge harm, and this concern was shared by most SVs. Almost all SVs expressed that they would need to take time to process and prepare for restorative justice conferencing and would want to manage their expectations, as many were sceptical that the person responsible would be genuine in their engagement, as one SV clearly stated:

These are people that hurt other people and that take what they want without any thought about 'how is this going to impact [us] now or in the future?' ... So to try to rationalise with, reason with a sociopath, with a criminal, criminal acts, that to me seems like it would be like to try to speak another language to somebody. – Deborah

Several SVs expressed concern about consequences. SVs expressed that they believed accountability and consequences were important to their justice interests and felt that restorative justice conferencing may fall short compared to the harm caused by the offender. The perception of a lack of severe enough consequences also made some SVs question whether they would want to participate themselves. One SV felt that the offender not having a criminal record would allow the offender to continue sexually abusing others. He shared that the priest who had sexually assaulted him worked and lived in different towns and that he did not find out until he publicly shared his story 50 years later that over a dozen other classmates had been abused by the same person. In addition, some SVs also mentioned that they could not conceive of a possible consequence that they would want the person responsible to take on.

And as far as, I do think it's really positive to be able to suggest reparations, but in my case, right now, sitting here, I can't even come up with a reparation. I can't think of one. – Lisa

Many SVs believed that power imbalances between themselves and the offender(s) would make restorative justice conferencing impossible or unsafe for the SV. SVs brought up situations such as minors confronting adults and individual SV confronting clergymen or others involved within a larger institution. The question of age and consenting to restorative justice conferencing as a minor came up multiple times. SVs worried that some people would be pressured into participating when they did not truly want to in order to please others or due to their personality type. One SV also expressed this concern even with trained professionals involved in the process. Another SV worried that some people would be guilted into the process by others in order to allow the person responsible to 'move on with their lives'.

And I hope sometimes, too, a lot of survivors don't feel that guilt if this restorative justice comes to be, and it's somewhat prevalent as an option. I hope survivors don't look and go, 'Oh gosh, I feel so horrible because I should have been a nicer person', you know what I'm saying?' 'Cause I think a lot of

people say, ‘This happened five years ago, or 10 years ago. Let them move on with their lives.’ – Mike

Several SVs said that they would not be willing to participate for a variety of reasons, including over concerns of confidentiality, needing to report what happened, or feeling as though it would be wasted time due to the offender’s perceived lack of empathy. One SV worried about anonymity, since she had not told her family or many friends about her assault and did not want them to know. One SV cited the low reporting rate to the criminal system and did not believe that SV would be willing to participate because they would be unwilling to tell an authority figure about the assault. Some SVs did not think they would be able to sit in the same room as a person who had harmed them, whether because they feared the offender or because of the anger that they felt towards the offender. A few SVs expressed preference to pursue criminal or civil legal action rather than restorative justice conferencing.

Many SVs were uncertain about participating in restorative justice conferencing, largely for many of the aforementioned reasons. After much discussion, most SVs were curious but remained undecided on whether restorative justice conferencing would be or would have been beneficial to themselves and the particulars of their case. One SV, who was initially strongly against restorative justice conferencing, spoke of wanting to have options other than jail for their perpetrator in an ideal world. Many SVs expressed an overall mistrust in engaging with any system, including any system that might house restorative justice programming of any type. Due to negative experiences engaging with criminal or civil legal systems, some SVs expressed a feeling that the brokenness of other systems made restorative justice conferencing feel impossible to achieve. Some SVs viewed conferences as just another potential way to be abused by a system.

### ***3.4 Difficulty conceptualising restorative justice: logistics and questions***

Due to the lack of knowledge of restorative justice in general and restorative justice conferencing in particular before participating, many SVs had difficulty conceptualising and imagining a restorative justice conference. These results are presented in Table 4.

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**Table 4** *Difficulty conceptualising how restorative justice works*

<b>Code</b>	<b>Number of Times Code Used</b>	<b>Definition</b>	<b>In Their Words...</b>
RJ logistics	96	Comments about where or how RJC should be housed or implemented (with CLS, community centres only, with advocates etc.).	'I think that it would still need to be initiated by like a prosecutor. Because if it was something where it was a community centre and you were, and it was an outreach thing, why would the perpetrator want to go along with this if there's not a different or worse consequence?' – Helen 'I think it definitely should be in the criminal justice system. I think it should be handled by the professionals that you mentioned, and I also think it should be handled not at the rape centre. I think it should be handled at a facility where they are housed.' – Sarah 'So, any kind of restorative justice thing, I would say absolutely needs to be separate from law enforcement because they are beyond corrupt.' – Shelly 'I believe that holding these processes within the prosecutors, state lawyers, state politicians, judges, I think just like, it allows the State to ask again, "Is this really violence?," or, "How am I going to make sure to control the actions of community members again?"' – Flecha
RJ	74	SVs' misconceptions of or confusion about what RJC is, including questions about accountability including the question of whether any consequences would follow the wrongdoer going forward.	'But is this restorative justice something that these guys want to apply for a job years later, somebody would say, "Oh, you had to go through restorative justice? For what?"' – Mike

SV shared several logistical questions about where and how restorative justice conferencing could exist and several questions about restorative justice as a concept. Some SVs wanted restorative justice conferencing to be in some way attached to the CLS, but others believed it should be completely separate and housed within a community-based centre. SVs generally had more questions than answers about the logistics of where and how to participate in restorative justice conferencing. These concerns were expressed even among participants with some prior knowledge of restorative justice. For example:

Because I do actually understand and I do actually really, really believe in restorative justice, and just learning more about the processes. Because I understand the theory, but I don't actually understand any of the how to get to it. – Flecha

In terms of logistics, when asked how and where restorative justice conferencing should take place to best support SV, many had difficulty separating restorative justice conferencing from the CLS. Initiating the restorative justice conferencing process was particularly difficult to conceive of without first calling 911 or contacting police directly. Some SVs also did not feel that the person responsible would want to participate unless a potential alternative criminal consequence was on the table. Other SVs thought restorative justice conferencing should be tied to the CLS, whether the cases could not be prosecuted or whether the cases were initiated after a criminal conviction. Some SVs saw restorative justice as a mechanism solely available within a jail or prison. Other SVs desired restorative justice conferencing to exist completely separately from the CLS for various reasons, including distrust. Other reasons for wanting restorative justice as a whole to be separate from the CLS included a mistrust of government in general, supported by stories from U.S. history where the government was oppressive and controlling of certain communities. Some SVs felt it would be beneficial to have a separate system handle restorative justice but were concerned about the capacity of a new centre to take on restorative justice conferencing for sexual assault.

Many of the SVs who imagined restorative justice existing solely within the prison system post-conviction did not report their assaults. Thus, these SVs actually had no direct knowledge of the CLS. Some SVs did not believe restorative justice of any type should be available anywhere until the CLS better serves SVs. While SVs had varied perspectives on where and how restorative justice conferencing should take place, most expressed a desire to learn more before making an informed decision.

SVs had many questions about how the process worked for people of various backgrounds and experiences. Common questions were how to handle situations that may involve an imbalance in power. Also commonly expressed was the concern about the length of time the SVs would be allowed to prepare themselves to initiate the process, given that many SVs felt they needed to do emotional work to recover before getting ready to participate. SV wondered what kind of support, such as therapy, would be available to help those who wanted to participate to prepare for the process. Questions were raised about how to handle situations with a single assault involving multiple offenders where some may participate and others may not. SVs assaulted in a marital context with children involved wondered how restorative justice conferencing could be done in such a way that the CLS or family court system could not interfere or use participation against them.

Other common questions included if there was a certain age required to participate. Several SVs had the idea that restorative justice conferencing always occurred concurrently to the criminal process, and many of them wondered if they were only possible once the person responsible was convicted. They thought that the

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wrongdoers' participation might be seen as manipulation to lessen their sentence. Many had questions about what constituted a 'repeat offender' and whether that title only applied to people previously criminally convicted. Others wondered whether SVs could still participate in restorative justice conferencing if they later found out that the person responsible had committed similar harm before to another person who did not want to participate. Finally, many SVs wondered whether restorative justice conferencing participation would show up on a responsible person's record in some way. Wanting a record of harm came up frequently and seemed expressly important to some SVs. Some SVs questioned what is culturally different about other countries where restorative justice conferencing is in place, such as New Zealand, and how these cultural differences could impact its efficacy in the U.S. The accumulation of questions culminated with SVs indicating a willingness and desire to learn more specifics of how the process works before making an informed decision.

#### 4 Discussion

A total of 21 SVs of sexual assault provided their perspectives on restorative justice conferencing, with various reactions and an overall positive perception and also an expressed need for further education on who can be included and how it could work. Restorative justice conferencing was a new concept for most participants. Some had positive perceptions and expressed strong interest in having voice, validation, vindication, participation, offender accountability-taking responsibility, and the potential benefits of rehabilitation for everyone involved. These findings are in alignment with what are known to be justice interests of SVs that are not the aim of the CLS. All SVs ultimately agreed that it could be a valuable option, but they also expressed many questions, misconceptions and concerns about restorative justice.

Some SVs had concerns of restorative justice due to misconceptions about the process. SVs were concerned about highly violent offenders, repeat offenders or highly manipulative offenders engaging with restorative justice. In an ideal process, those offenders would not be eligible for participation. Offenders unwilling to acknowledge harm would also be ineligible to participate. Additionally, if SVs seek outcomes more consistent with what the CLS claims to offer, restorative justice programming is not the best option. SVs enduring sexual assault in the context of a physically violent relationship or marriage were typically the participants who voiced the strongest concerns over their safety and had more negative perceptions about restorative justice conferencing for themselves. While they recognised restorative justice conferencing would not work in their situations, they understood that it could be an important option for another SV. Restorative justice conferencing strives to maintain the safety of SV, typically excluding participants whose sexual assault is enmeshed in a larger context of harm and often involves children. Forms of restorative justice conferencing exist within the child welfare system that are more appropriate for these cases (Pennell, 2006).

Restorative justice conferencing should always be predicated on the SVs' choice. No one should participate who does not feel that it would be beneficial or that it could be harmful to them, because the goal of restorative justice is repairing harm, not inflicting further harm. SVs who are fearful of the person responsible could opt not to participate, or they could allow a victim representative to participate in their place (Keenan, 2014). Additionally, if SVs think restorative justice is too lenient or cannot think of an acceptable consequence to give the offender or cannot think of why they would want to participate, they should not in any way feel pressured to do so. However, with education and opportunities to discuss consequences, these concerns could be dispelled. Existing programmes have been careful to modify restorative justice as it is practiced for other crimes and with juveniles for the specific needs of sexual assault (Ptacek, 2009).

Many SVs were concerned about power dynamics and imbalances between the SV and the offender. SVs expressed concern over how to initiate restorative justice when faced by members of powerful institutions, between minors and adults, or when SVs or perpetrators could be peer-pressured or coerced into participating. While processes would hopefully allow professionals to handle these dynamics with a careful eye, some researchers have contended that more conversations around the potentially adverse consequences of power imbalances and restorative justice are understudied and should be further explored (Ptacek, 2009). Restorative justice conferencing and institutional harm should also be considered as an area of further research (Smith & Freyd, 2014).

Notably, despite initial opinions entering the dialogue, after speaking with others in their focus groups and hearing others' thoughts and perspectives on restorative justice conferencing, almost all SVs agreed that it should be an available option to others who may find it beneficial. This finding was in spite of their various concerns and varying opinions that align with contemporary academic dialogue surrounding the differing perspectives of carceral feminism, abolition, and restorative justice for sex crimes and sexual violence. Some SVs explicitly stated that they would participate in restorative justice conferencing, but they shared a specific characteristic. The majority of them had heard of restorative justice before, understood its basic components or had the time to process that information. Because of this, it could be reasonably concluded that educating communities on restorative justice is an important step that must occur before expecting the SVs to conclude that the restorative justice conferencing model is beneficial. Although restorative justice still exists on the margins and within certain communities, the number needs to be enlarged significantly. Activities ahead include opening dialogue about concerns, benefits and general thoughts on its place in our communities. Where and how to participate in restorative justice conferencing and initiate that process should be more clearly delineated for potential participants going forward. A clear process would help to educate the community about restorative justice conferencing as well.

Not all SVs felt the need for full restorative justice conferencing but imagined being able to speak to the offender without feedback and within a supportive community. A participant described this as 'unilateral justice'. Many other SVs expressed having a similar interest, offering SVs voice, acknowledgement and

validation in this capacity. Unilateral restorative justice as a possibility is within the realm of work done by Restore NZ. Restorative justice conferencing needs to be further developed as an option in communities. This development can be accomplished in several ways. First, education should be provided about restorative justice conferencing to every organisation that works with SVs (Ptacek, 2009). Additionally, using storytelling with situations where restorative justice conferencing is seen as a viable option should be used to illuminate SVs and providers on its importance, based on our experience that participants' storytelling appeared to change the minds of others within their group. Finally, utilising online platforms and videoconferencing to implement restorative justice should be strongly considered. This suggestion stems from the unexpected productivity of COVID-necessitated use of Zoom to conduct the present study. Videoconferencing assuages SVs' concerns for safety as well as provides a wider reach to those who may participate. Pilot programmes should continue to be implemented and expanded as part of the criminal system and independently as well. Restorative justice conferencing as a community-based programme separate from the legal system is a priority due to the mistrust embedded in SVs interactions with the CLS. Rape crisis centres (RCC) and other community-based organisations should consider implementing restorative justice conferencing.

## 5 Limitations

There are several limitations to this study that should be noted. This study had a small convenience sample of SVs limited to Arizona, primarily in the greater Phoenix area. The focus groups and interviews were all conducted in English, although there is a large, monolingual Spanish-speaking population in the state. This could impact the generalisability of the results for certain populations. The inclusion criteria were broad and little personal information was collected on the subjects, resulting in some participants who had experienced sexual assault within the context of domestic violence. In cases where sexual assault is enmeshed in domestic violence, typically the SVs would not be encouraged to participate in restorative justice, for their own safety. Although the number of participants was small, the narratives were rich. Due to this sample largely being taken from an urban area, this work should be repeated in other locations and with participants of intersectional identities. While the sample was limited in many ways, the process could be broadly adopted for other studies.

This study introduced participants to restorative justice through a brief introductory presentation about the procedure and anticipated outcomes of restorative justice conferencing. SVs did not have much time to process the concept of restorative justice in general or restorative justice conferencing which could have impacted the results. Additionally, none of the SVs had participated in restorative justice. The concept to them and the ensuing discussion was entirely theoretical and based the fact that none of the SVs had participated in restorative justice. While this perspective is considered important to determine the readiness or willingness of participants to consider restorative justice as an option to justice

after experiencing sexual assault, it continues to be imperative to gather knowledge of the lived experiences of those who have participated in this process when making determinations about the future of restorative justice for SVs of sexual assault.

## 6 Conclusion

Consequences of sexual violence for SVs are far-reaching and long-lasting. Communities must focus on SVs and the role of restorative justice with renewed resolve, rigorously work to build supportive structures and programmes and relentlessly fight for societal change that has placed barriers and roadblocks in the path of SVs for far too long. All of this must be accomplished by seeking input directly from SVs and building on the present findings to improve uptake of programmes that could be critiqued at this point in time as the perspective of ‘elites’ about what SVs need without first listening to them directly. Utilising restorative justice conferencing in conjunction with the criminal system is a possible approach, yet researchers around the world believe that it could be a useful victim service if separated from the CLS (Keenan, 2014; Koss, 2000). The CHAT Project based in California demonstrates this idea as a possibility with enthusiastic participation from many community partners (Kim, 2022). The founder of the U.S. RESTORE Program has contended that rape crisis and other victim centres should claim justice as a service, given that the CLS does such a poor job of providing it in sexual assault cases (Koss, 2000, 2013). Sidestepping the criminal system, removing the key elements of its adversarial process, and creating restorative justice programmes that do not involve the reporting to CLS personnel may be of interest to SVs (Koss, 2013). RCC and other advocacy programmes have long been a place where SVs can seek services that provide healing activities apart from or in conjunction with the CLS (Martin, 2005). Whereas the CLS follows a particular order, rape response centres have the potential to be more flexible and can be a unique home to innovative justice mechanisms for SVs (Daly & Bouhours, 2010). SVs provided feedback that restorative justice conferencing has great potential for SVs who would find it useful in their case and community. These results suggest a need for further awareness and education on restorative justice as well as restorative justice conference programming within the community.

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