

## CHAPTER 4: POLICE PERCEPTIONS AND PRACTICES

The first chapter of this report described the development of the Wagga model as confluence of various reformist trends. Chief among these were reforms in juvenile justice, in criminal justice more generally, and in policing. In juvenile justice, the two modern alternatives to the philosophy of just deserts - the alternatives of therapeutic welfarism and radical non-intervention - seem to have been losing favour politically for a decade or so. Among the sources of criticism of both treatment in preference to punishment and of doing nothing in preference to punishment has been a growing victims' movement seeking more recognition for victims by the criminal justice system in general. A common response to this movement has been to assume that victims want a return to a regime of harsher punishment, and that they want recognition of their suffering to act as a spur to that harsher punishment. But there have also been more constructive responses to the challenge of the victims' movement, and these responses include the development of paradigms of restorative and transformative justice.

It was argued in the first chapter that the family conference process fits within these paradigms of restorative or transformative justice. It was argued, furthermore, that reforms to police governance and philosophy under the collective title of community policing made possible the adoption of such a process by police. From transcripts of conferences provided in the second chapter, and from the observations of participants provided in the third, it is fairly clear that the primary aim of the process has been perceived by participants to be neither punitive nor therapeutic. Rather, its aim is perceived to be primarily educational. This is doubtless part of the reason why school staff showed an enthusiasm for the process from the very early stages of the development of the Wagga model.

Now if the process has an educational aim, and if it is an example of transformative justice, then it should have an influence not only on victims, offenders, and their respective communities of care. It should also have an influence on any public officials involved in the conference. In the Wagga model, that effect is most likely to be felt among local police. Indeed, one of the participants cited in the previous chapter - a man with a long history of dealing with police - suggested (colourfully) that conferences would have a highly positive effect on members of the service.

That the involvement of police in family conferences could improve relationships between police and other members of the local community was a position adopted early by Terry O'Connell. His survey of colleagues' attitudes not only served as a preliminary consultation prior to introduction of family conferencing. It also identified the chief sources of his colleagues' frustration, and those procedures that they might be willing to change. Positive publicity for early conferences came from participants and from media reports. This publicity created the necessary breathing space to experiment with the format of the process, and to develop a model in which the process would be employed. Information about the process was subsequently provided to local police at monthly training days. Institutionalisation of the process, however, required the two procedural initiatives of (1) establishing a review committee and (2) inviting investigating officers to attend conferences.

Both initiatives forced police to consider and debate the relative merits of the existing system and the new process. But the initiatives brought other advantages, as well. First, having investigating officers attend the conference enabled them to see a meaningful result for their efforts, and this, in turn, seems to have produced positive internal publicity for the new process and model. Second, the review committee or "adjudication panel" removed from junior officers the burden of exercising individual discretion. That discretion was now collectivised and exercised democratically; a group of senior sergeants now took the responsibility for deciding whether a case could be dealt with by way of conference rather than court. In theory, at least, members of the committee were guided by the seven formal objectives of effective cautioning (as listed in the first chapter).

To provide a practical (and personal) perspective on these changes within the Wagga Wagga police patrol, interviews were conducted: with the local patrol commander; with a senior sergeant who had regularly attended review committee meetings; with a senior sergeant from the beat police who had convened approximately thirty conferences; with a police prosecutor who had recent experience of other patrols - including one in which community aid panels were operating; and with a newly installed head of the beat police who was still unfamiliar with the new system at the time of the interview. Many informal interviews have also been conducted with officers who have attended conferences as investigating officers - both in Wagga and in other patrols and jurisdictions. Their reports about the potential of the process have been overwhelmingly positive. In essence, however, these officers retell the sorts of stories that are provided by conference transcripts. The interviews reproduced here, in contrast, give a feel for organisational change from the point of view of managers who have the potential to stop such change if they do not agree with it or understand it. The views of these managers are important indicators of the political viability of the Wagga model. They give some indication of the extent to which the integrity of the conference process can be maintained within a police organisation.

Before considering the views of these middle managers who are familiar with the model, however, it is worth considering the views of counterparts who are new to the concept of conferencing. These views might be taken as something of a benchmark for the sake of comparison. Since late 1993, Terry O'Connell, John McDonald and David Moore have trained conference coordinators in several Australian jurisdictions.<sup>1</sup> Those trained have included specially appointed coordinators from the South Australian Department of Court Services, school guidance officers from Queensland, and police from New South Wales and the Australian Capital Territory. Several programs have been run for police at constable's and sergeant's rank. These training programs have been as educative for the trainers as they have for participants.

The introductory sessions of training programs for conference coordinators include a collective discussion of frustrations with the current system. There are two major reasons for conducting this discussion. One is to allow trainers to receive useful insights into the concerns of trainees. The other is to allow coordinators-to-be themselves to contribute to the design of an appropriate model for the convening of

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<sup>1</sup> Training programs are also being established in the United States, Canada, the United Kingdom, and South Africa.

the conference process. There are some predictable differences between the factors that cause frustration for court services officers, for teachers, and for police. But there are also many shared concerns. Prominent among these is rivalry between agencies - either because they both claim responsibility for a particular function, or because they both deny responsibility. This is the key technical concern. There is also a shared general cultural concern about the contemporary circumstances of young people. Both sets of issues - the technical and the cultural - are enunciated forcefully in the following excerpts from a training session run for a group of police early in 1994.

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### TRAINING SESSION BLUES

The following quotes are taken from a session of the training program, a session designed to encourage analysis of the system within which officers operate. The session invariably leads to constructive and practical suggestions about how that system might be improved. First, however, participants have a good deal to get off their chests - and this is as true of teachers or other practitioners as it is of police.

The following comments were made in a setting of both relative confidentiality and collective emotional engagement. And it is precisely for these reasons that they are so revealing. In this instance, the contributors are male and female police officers, aged from their mid-twenties to their late forties, based in rural New South Wales. Their general feelings are similar to those of their colleagues in urban settings - even if the nature of the incidents with which they deal on a daily basis is somewhat different. (It should be noted that most of these respondents are working in towns with predominantly Aboriginal populations, hence the frequent reference to tensions in their communities between non-Aboriginal and Aboriginal people).

Prior to being introduced to the full details of an "effective cautioning system", participants at the training session are asked about (1) their personal views of young people who commit crime, and (2) their views of the system for dealing with those young people. These views are readily forthcoming:

- A: Personal view? They should all be locked up.
- B: Shouldn't be allowed to repeat. The system's too lenient.
- C: They're taught to use the system to their advantage too much. And personally they abuse it. I feel sorry for them. The system does nothing to correct the problem. Like when they're identified, nothing's done.
- D: They're protected from everybody who's involved.
- E: The system gives them too many second chances.
- F: The system's not strong enough. They just laugh at it really. And personally, I've got a low opinion of them.
- G: Same as most people. I think the system itself is too easy on them. Personally, I think they should be held more accountable in the way of compensation.
- H: I find with the system that the punishment doesn't fit the crime...Personally I'm just pissed off.
- G: Well I personally think they don't care. And with the system, I think it's got no incentives to stop the offender from reoffending.
- H: I place them in three categories. There are some I didn't think about a great deal. There are some I dislike intensely, and there are some I could be friends with, I feel

sorry for, because they did what they did for a particular reason. So I think they fall into those three areas. As far as the system's concerned, I think sometimes what bugs the cops the most is that the decisions of the courts are sometimes too critical. There appears to be lack of consistency across the board. And it's politicised. Why I felt that way - I was actually thinking about what I felt personally for them - is that I think it depends entirely on who the person was and what they did, as to how I felt about them.

As is so often the case, then, a collective discussion quickly reveals some complex positions beneath the general feeling of frustration. At this level of *feeling*, there is a longing for relatively straightforward solutions to obviously complex problems. At the level of *rational analysis*, however, there is a concern that the system for dealing with those problems does not have the educative function that it is supposed to have. There is also a concern that young people both abuse the system and are poorly served by it - "protected from everybody who's involved". There are, as always, some contradictory positions. On the one hand, there is a call for consistency of official response. On the other hand, there is a clear recognition that the circumstances of young people who offend against other people differ markedly from one case to another.

The official response to the circumstances of victims is also felt to be unacceptable. (Questions here are asked by one of the trainers, taking notes at a whiteboard. He begins by asking how police feel victims are treated by the system):

E: They've got little or no support, no back up, and play little or no part in what goes on, other than they ring the police if they're a victim of something, and that's it. The only involvement they have is if they have to go to court.

Q: So - left out, basically, D\_\_\_\_\_?

D: Yeah, I had ill-informed, and also they're picked on by the offender's family, and the offender, if they take action.

Q: So they're victimised by the offender's side?

D: Yeah.

H: I put down "frustrated". That's how *they* felt - not how I felt. You know, things have happened and they can't do much about it. Looking at B\_\_\_\_, with the Aboriginal juveniles. You talk about racism, but if your car's stolen, and you can't do anything about it, you feel frustration about that. You've got the victim's families all talking to one another - about blackfellas. It just all builds up.

Q: Okay, so it generates racism, J\_\_\_\_\_?

J: I had that they're unfortunate, and intimidated. They're unfortunate that the system doesn't help them, and they're intimidated by the system. But I had...thought they're not looked after at all, in many ways, by police. Because police are the ones they come to...and more and more these days we are addressing them, but we're letting them down. But we are the police; we care.

C: No compensation, little input in the courts. The court's not really recognising them, and personally, I think they feel frustration and anger.

Q: Does that rub off on you at all?

C: It does, yes...

B: No satisfaction. No justice.

K: A terrible system. I think the system fails...[inaudible]...and personally, if I can speak for victims' feelings, particularly in places like B\_\_\_\_, M\_\_\_\_, the north west, I think their *fear* of the families, without raising the tension...to become involved..

H: I'd just like to add that most of our victims intimidate themselves, you know, that something's going to happen. They imagine, you know, "They're going to burn the house down!", "They're going to scratch me car!" - and all these things. They're yellowbellies, as far as I'm concerned!

Q: So you think that they've got no guts?

H: Yeah, they've got no guts. They've got to stand up in life! They just all lie down....

J: They're never going to challenge offenders if they don't get up and have a go!

G: Most of what I've got's already up there. I feel sorry for victims.

F: Like the first one, I thought they were victimised by the system and by offenders, but also I thought, for the court, there's no real encouragement. Like after a while they just get a feeling like, well, "I won't report the matter - because, like, nothing's going to come out of it, so why even bother?".

H: From the system, there's not enough feedback from people, because we don't follow it up, or they don't see any action taken...They say, "Well, why bother?..."

G: The victims have a very low satisfaction from the justice system. And I believe they're basically helpless.

H: ...frustrated... intimidated...

Here, again, behind the general feeling of anger and frustration, is a complex set of positions. Victims come to police, who want to help them, but frequently fail. So police feel sorry for victims - and yet, on occasion, police are also annoyed by the attitude of victims. It appears that victims engage in some sort of cost-benefit analysis, and frequently decide that the cost of participation in the justice system far outweighs any benefits. This decision then apparently raises the ire of some officers.

As described by these practitioners, the role of officialdom appears to be doubly debilitating. First, the state claims responsibility for addressing a range of social problems, thereby absolving other community members of responsibility. Then, by failing to provide an adequate response to those social problems, the state fosters cynicism or apathy, further weakening the ability of civil society to respond constructively. When asked about a key institution of that civil society - the family - police show both concern and annoyance that, in the districts in which they work, the family appears to be failing:

F: I found up in B\_\_\_\_\_ that the offenders' families are blind to the offences - I'm talking about juvenile offenders. They have no responsibility towards the kids a lot of the time, the kid just does what he wants to at any time, day or night, and I think that the families don't want to know, or turn a blind eye, because they're the Aboriginal kids working against the white people. And that is a way that they theorise.

H: I think the families know no better, in most cases, and some do care, but they don't know *how* to care. They've got no idea how to be parents. You tell them the kid's done something wrong, and they'll give them a whack in the eardrum, but tomorrow they don't do anything about it. There's no education for parenting, and the kids are not going to learn off people who don't know anyway. There are no role models, and I think authority...You talk about peer groups - you know, they say it's their culture, "Why should we force our views on them?" - like going home at night, and knowing where their kids are...

Police dealings with families of people currently defined as victims seem as complicated as do dealings with families of people currently defined as offenders. One

officer related a recent discussion he had had with a well-known Aboriginal elder following the funeral of a young girl who had been brutally murdered:

C: ...And I was speaking to her afterwards. She said that she found, she thought the police were too...were *overprotective*, were *overconcerned*. She had one friend who..[unclear], and she wanted to see \_\_\_\_'s body. And the police were saying "No, no!". And she said, well, it didn't really matter because she's dead. It didn't matter what these animals had done to her. But her opinion was - as was \_\_\_\_'s parents - that the police go too far to protect...in trying to protect them from what goes on. They didn't feel left out. They just felt they were being mollycoddled...

D: The police can't win!...

If police feel they can't win when dealing with citizens affected by crime, those feelings of inevitable failure are even stronger in their dealings with other agencies. Participants in this training session were asked about their dealings with colleagues in the law, social welfare, and education. Their two chief concerns about the legal system are directly related. First, the real issues between victims and offenders are not addressed. And second, in place of an engagement between the parties immediately effected, there is a powerful antagonism between police and lawyers:

E: The offender doesn't become part of the court system. He's just sitting there with a white solicitor doing the talking, and he's just sitting there frowning.

D: I think that they're vindictive towards police.

K: A lot of the times in court it's not a case of the police trying to prosecute the offender and prove he's guilty, it's the solicitor trying to make the police out to be lying arseholes. It's not what the offence may have been, it's how the offence may have been investigated.

Q: So the police are put on trial?....

H: They're too idealistic. They're not realistic. What I really hate about it is, they *give* instructions, they don't take instructions! We've got people who come to us and say "Look, I want to plead guilty, but this bloke's telling me to plead not guilty!"....

E: Just a quickie here. We had district court at B\_\_\_\_\_ last week, and we had a WALS solicitor applying for bail for a female. He got the bail, and he stood up and pointed at *every* copper in the court house, and went, "Yes! Yes! Yes!". As if to say, "I've got you, you arseholes!". And as soon as he said that, she was arrested for another break and enter, and his jaw hit the floor! But he stood up and pointed at every copper in there that was involved in the matter, as if to say, "I've got you, you right arseholes!". And that in the district court! All it does is spur us on to lock up more!

H: Personally, I understand they've got a job to do, but I think that they go to far. Their common sense and what they should do by law...it's just getting out of control....

(Lest the reader think that relationships between police and legal services in rural New South Wales are damaged beyond repair, the following tale should be noted: Some of the officers quoted here returned to their patrols, convened meetings to consider the establishment of a conferencing scheme, and immediately asked members of the local legal service whether they would care to sit on the review committee. The response was affirmative, and the basis for a more cooperative relationship was thereby established.)

If police in these rural areas are concerned that lawyers too often engage in the wrong way, they are concerned that welfare workers don't engage in any way. This criticism

may or may not be justified - but the perception is certainly very strong. There are, of course, historical reasons for rivalry between police and social workers. Police agencies were, for many years, the only agencies performing a significant social service role.<sup>2</sup> Police still feel that they and the public hospitals remain the only agencies offering a twenty four hour social service. How did they feel about other social services in their districts?:

G: WOFTAM!

Q: Translate!

G: Waste of fucking time and money... "We don't know where the kids were!" The TV goes on, so what do the kids do? - roam around town. Like we haven't got a big juvenile problem, we haven't got much of a crime problem at all. You know, it's fairly remote, the crime we've got - swearing and carrying on and all that - but still the kids have got to be looked after. And when we get called out at four o'clock in the morning - to a domestic - and see ten, twelve, fourteen year old kids walking 'round the street, we try and get on to family and community services, and they come out and say, there's no crime, there's nothing they can do. So why do they bother coming out?

J: They don't target that. They say they deal with sexual assault-type situations. I think we police...I think they don't do a great deal, but then maybe we just don't really know what their role is. See, they say that they're looking for kids who are at risk - sexual assault victims, things like that. Well I say, at four o'clock in the morning if kids are walking the streets - surely to God they're at risk of that!...

L: They seem to be very cosmetic out our way.

A: I don't think they've got a job description. They will not work together....

The schools are also seen to be failing in their social service role - although the explanations for this apparent failing are more varied:

H: We've got a new couple in town, and of course new kids are always getting picked on in small schools. This little eight year old girl, she got bashed the other day by some older ten or twelve year old Aboriginal kids. She went to the Principal and complained, and he said, "Oh well, get the kid to toughen up a bit". He did nothing about it.

K: You've just got to look at the school activities officers legislation that we work under - how *weak* that is! We were told, "Look at all these new activities you're going to get to take truants back to school". Now H\_\_\_ and I did one the other day, and what a joke that was! We had no power of arrest so to speak, but we did pack the kids in the back of the truck and take them off to school. But then the Principal turned around and said, "Well I'm not going to take them unless their parents don't want anything to do with them..." and this and that. And we had to run'em back out again - in the truck - and find their parents. And their Mum and Dad said, "Oh no, they don't go to school", and so on...

Q: Were they over the compulsory age? The Principal sounds like he's negligent, actually.

K: No, he reckons he was following directions from his legal branch at the Department of Education. He said he can't do what we were hoping to do.

H: The parent has the right to keep the child at home, but he wanted to know whether the parent actually wanted the kid to be at school or be at home.

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<sup>2</sup> See M.Finnane *Police and Government*, Melbourne, Oxford University Press, 1994, ch. 5

E: I think quite a lot of young teachers - I don't think this is true all the time - they aren't suitable role models for kids. They're not an authority figure; they're seen as, oh, a mate, and things like that....That doesn't give them an authority figure to look up to. Naturally then, there's no authority. And I didn't want...this isn't just referring...Like, I couldn't believe it when I started in this job - in Sydney - the attitude that juveniles displayed towards the police...Like I'm probably biased, but there's no way in the world when I was their age that I would go 'round speaking to police in the way that I've had kids in Sydney and at B\_\_\_\_\_ speak to me. No way, there's just an absolute lack of discipline...I just don't think that schools are providing role models for kids anymore.

In sum, and not surprisingly, this group of officers had much in common with those police in Wagga Wagga who were surveyed before the introduction of family conferencing in their patrol. There are some differences in emphasis. Police based in the more remote rural areas were less driven by concerns about permanent scrutiny from internal and external watchdogs, and less convinced that policing was primarily about law enforcement. Conversely, they seemed even more concerned at the lack of respect shown by some of the people with whom they worked, by a lack of cooperation between agencies, and by the loss of social capital. They felt some sort of responsibility for maintaining the social fabric of their community - even while recognising that this was a task that no government agency could perform. The question is whether a change of procedure - and with it a philosophical shift - could begin to alter this situation. Could civil society then begin to perform the task of repairing the social fabric? Could government agencies spend less of their time working at cross purposes? The situation in Wagga Wagga two years after the introduction of the Wagga model may provide some answers to these questions.

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## **CHANGING PERCEPTIONS IN WAGGA WAGGA**

### **The Patrol Commander**

The Patrol Commander for Wagga Wagga during the period covered by this report was Chief Inspector Kevin Wales. He is able to take a significant part of the credit for good relations between police and the rest of the community in and around Wagga during his time in that position. During that time, he has had to tread a fine line between taking seriously the corporate rhetoric of local responsiveness, and acknowledging the realities of accountability to senior management in Sydney. When interviewed early in 1994, he was diplomatic on the issue of regional office concern about the effective cautioning program using family group conferences. Why, he was asked, had at least one senior officer not looked favourably on the scheme?:

I think he didn't think that victims could handle it, you know. But from my experience - and I've seen a couple of very angry victims start off as very angry persons and finish, at the end of it, being very compassionate really towards the young offenders - when they see the plight that the young offenders, with their dysfunctional families et cetera...And I think that there've been some very positive moves in that area. But generally, when you look at...currently, here at Wagga, I'm very concerned, because we've had a fragmentation of the people doing the cautioning.

Q: And that began in January?

KEVIN: Yes. It started in late January, early February, where we had a change of staff - not at my direction.

Q: As a result of those superintendents coming down?

KEVIN: Yes. And it was sort of seen that the two beat police sergeants weren't effective. And my tactician wasn't effective. I didn't say that, but it was said from other sources, and the changes were made without my consultation. And what happened there - we just had the fragmentation of the people doing the cautions. Hence at Wagga at the present time the paperwork has got a little bit behind.

Part of the reason why the program was experiencing technical difficulties was that new systems of information management were being introduced. One of these was a statewide computer network, the so-called COPS, or computerised operational policing system. The other system of information management involved the creation of so-called Key Result Areas, or KRAs. These are six areas in which the Police Service now measures the extent to which goals of the corporate plan have been reached.<sup>3</sup> As usual, however, such indicators can be used as means of increasing central control. Where a goal is not met, the authority of local officials may be undermined. Furthermore, other unexpected central political decisions were again affecting the capacity to plan on the ground. This was considered particularly problematic for a program such as that involving family conferencing - where a degree of expertise and a particular aptitude are necessary:

I think the persons that are running those conferences need to be *very* perceptive about, you know, what's happening with the victim, what's happening with the young offender's support people. That's very important.

Q: Well, what was the reason for the previous incumbent staying only three months?

KEVIN: Well, he came from highway patrol, and he would have done a real good job too, 'cause he does, no matter what he does. But there was a ruling came back from the regional commander to say - because of the Easter toll - that all trained highway patrol people were to return to highway patrol duties.

Q: So that was a purely operational decision?

KEVIN: Yes, it was. It certainly wasn't because he wasn't doing his job...But you know, the beat unit at the present time, because of the task force arrangements, because of the KRAs, they've been fragmented now. They've only got one sergeant there, and eight constables, where before we had two sergeants and twelve constables. And they're actually performing - four of those constables - are performing duty over in the special task force for the KRAs, and the sergeant, Sergeant H\_\_\_\_, who did most of the conferences before, he is doing COPS training, which is an essential for us to be trained up here. So [he] has been taken out of the play.

Q: And was he happy with that decision or not?

KEVIN: No, I don't think [he] was happy with it. He understood. He was a trained COPS coordinator, and he would have had to do that training. And he would have had to make some rearrangements in the beats, for sure. Because [he] wouldn't have been able to do them. But, you know, I thought I had a senior constable down there that could have taken that position quite comfortably..

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<sup>3</sup> The areas in question are (1) reported property theft, (2) personal safety, (3) street safety, (4) road safety, (5) alcohol and drug related crime, (6) safety in custody. Each of these areas is further divided into sub-categories. As always, the meaning of these indicators is not always clear. Like most statistics in the area of law enforcement, their interpretation is affected by beliefs about the extent to which police can control crime, and the extent to which fluctuations in reported crime are related to fluctuations in the "real" rate of crime.

Q: But the reduction here in beat policing from two and twelve to one and eight - is that part of a statewide tendency?

KEVIN: No, it's certainly not. But what we had to do, you know...The pressure was put on about the activity listings of Wagga in the KRAs.

The introduction of the Key Result Areas could be read as something of an internal cultural backlash against the initiatives of the late 1980s and early 1990s. As some local police have put it, after the heavy emphasis on "proactive" initiatives, there has been a shift back to the measurement of "reactive" interventions. In the wake of this, the simplest way to defend successful community policing programs was by reference to the official goals of the Police Service. This was the line employed by the Patrol Commander:

"Sir, if I'm proved to be wrong, please tell me. Show me what I'm doing wrong within the corporate objectives and the statement of values."

Q: Well, he's not able to run that argument against you.

KEVIN: And he could not do that. There is, within my style of policing, plenty of prevention activities, and protection. Now the juvenile cautioning system's just one of the things, you know. What we're trying to do there is simply - and we realise we can't save the lot of them - but we're saving a lot of kids: The re-offender rate of ten percent - nine point nine per cent were our latest figures - on the re-offenders. So ten percent slip through the rung. And that ten percent may well be still committing crime. Now I've got no doubt about that, when you talk about some of the young people - I won't mention their names - but they're out there, and they're still committing crime. They're kids that slipped through the net, if you like to put it...

Q: ...before you had the system in place?

KEVIN: Some of them before the system, some of them even after, David, that did. But you know, one of the things I'd like to see in the system improved is a bit of more follow-up, you know? But you know, when you've got 780 odd kids go through the system since first of August 1991...There are a lot of kids. We, unfortunately, don't have the resources here to follow them up in the way that I would like to see it happen. If we did, it'd be great, to be able to say to these kids: Look, I'm a referral person, come back and see me. I often say, "Look, I'm here, if you've got a problem, come and sit down and talk to me". And I do get some kids that still come and see me, and I'm pleased to talk to them.

Q: But the philosophy you're having to counter is the notion that, "That's not our job! We're just there to put'em before the court"?

K: Yeah, the whole thing is, you know - and I believe it's just one very, very minute part of policing - is the fact that we *do* have to arrest people, we *do* have to put'em before the court, but crikey, not...You know, [my colleague at the Police and Citizens Youth Club]'s got the idea, "We've been doing that for two hundred years and it hasn't worked, so let's get onto something else a little bit more...proactive!" - if you like to put it that way.

The broader technical and procedural reform process described here has also interfered with the promulgation of information about family conferencing throughout the patrol. This, however, was considered a temporary aberration:

David, we had a thing here - and since COPS training has come in there's been a fragmentation of it - we used to have a...every person went to a training day one day a month. And at those training days we were bringing them up to date each month with: This is where the cautioning system's at the moment, there's been so many kids through

it, so many re-offenders, so much compensation paid, and forty percent have gone to court, sixty percent...We were doing that every month. Unfortunately that hasn't occurred due to the fragmentation of training days due to COPS training, et cetera. But we'll get back on track with that, because the police really *do* know, and need to know, exactly where we're sitting, so far as juvenile cautioning goes.

In sum, the effective cautioning program had received a series of minor setbacks at the start of 1994. These were not directly connected to the departure of Terry O'Connell from the patrol - since he had already been working in education and training, rather than the beat police, for over a year. Rather, a combination of political issues specific to the region and the patrol had been compounded by the introduction of both the COPS system, and by the primitive accounting mechanisms of the Key Result Area system. The real issue was whether the Wagga model had been sufficiently institutionalised in the patrol, and was sufficiently popular with general duties and beat police, to continue operation. So there are two issues here. Again, one is technical, the other cultural. The technical question is whether mechanisms such as the weekly review committee are sufficiently well established that their continued operation is not in question. The cultural question is whether, among police in the patrol, there is sufficient support for the program to enable it to overcome temporary technical and political setbacks. The responses of senior sergeants quoted below suggest a tentative affirmative answer to both questions.

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### **Review Committee Member**

Paul is a Senior Sergeant who was contemplating early retirement at the time of this interview. He served regularly on the weekly review committee for the juvenile cautioning scheme from the time of its inception, and thus had over eighteen months experience at this time. He was asked whether he found sitting on the committee to be a useful exercise:

PAUL: I found it a *different* exercise in that there was not a great deal of acceptance by police to it generally - initially. And...there *is* an acceptance of it now. I think they can see the worth of it. I think they can see that we can get restitution in some cases for the victim. And that in the long term, you can get the victim to face...the offender to face the victim. So that's...they then felt that something was being done. I think the reluctance to doing it in the first place is the age old problem of police finding that...if we arrest them, we seem to have a wish to see them go to jail and not think about anything more. That's the way I feel about it.

Q: You've cleaned up the case?

PAUL: Yeah, we've cleaned up the case, he deserves to go to jail! We take it that one step further, and I don't think...We've got to open our minds up...clearly and simply.

The review committee is a forum that may be conducive to such an opening of minds. Its members represent the various responsibilities within the patrol - beats, general duties, traffic, detectives. Given that range of experience and current responsibility, was there any division in the positions adopted for committee members? Did some favour conferences in preference to court more frequently than others?:

No, the more senior officers - I'd say sergeants, and perhaps down to senior constables at times - they didn't find that a problem. We tried to look at it objectively so that...you know, "What's the gravity of this offence?". We tried to look at the background of how the person's family life was, and we looked at their records, and we looked at the whole picture objectively, as to the probable outcome of cautioning, you know? And that's the way I looked at it. And we took some fairly serious matters, and as the persons had no record, we still recommended cautions - for some serious matters.

For this particular officer, at least, the potential benefits of a conference for the victim(s) was not an issue discussed at committee meetings - although the issue was in the back of his mind. The likely court outcome, however, was considered:

PAUL: Yep, the outcome. I looked at that. I don't know whether I was supposed to, but I looked at, you know, "What's the magistrate going to do here?". And I had thoughts that, unless it was a very, very serious offence, the probable outcome would be a bond. I considered that - to me - to be a waste of the court's time. Where we could perform exactly the same role, but we could also get'em to a conference situation, that the courts were reluctant or didn't have the power to do, that was a big benefit of it.

Q: So it's partly an efficiency argument, in that sense?

PAUL: Well I thought it was efficiency. As I say, there was a great reluctance of police to accept it. They thought that we were just whitewashing the whole situation, but there's been an acceptance of it now. But police are notoriously hard to change in their ways - as most people are. But there's a grudging...well, there is an acceptance of it now...

Q: Throughout the whole patrol, you think?

PAUL: No, I could only say *here*. I don't know how it's working elsewhere. But I just say...I just say, if it's working here, police here would be no different to police five hundred kilometres away, in a country situation, that they've got the same mentality. That mentality, initially, was, "We've caught'em; something should be done with them!". And their thoughts were, "Right! Get'em before the magistrate and get'em...into a custodial situation!" That clearly isn't the way to go. And I haven't always thought that way.

A question of political pressure from outside the patrol on the model as a whole is confused, in this next answer, with the question of pressure to alter the committee's decision with regard to specific cases. The answer is, nevertheless, an interesting one:

We virtually never, ever spoke to the arresting police in these matters - unless it was a point of clarification. We asked'em for a full brief of evidence, we'd sit down and look at the proofs of the offence. We'd look at restitution...that used to come in. It used to activate my mind, anyway. But there was never any pressure brought to bear on me by either a senior officer or the arresting police, to look at an outcome, a change in outcome, or to change our minds on an outcome.

A related issue of pressure on committee members concerns the more mundane question of whether pressure had to be applied to ensure the attendance of sergeants at committee meetings. Apparently, however, no such pressure has been necessary. Attending the weekly meetings is not considered an onerous task - indeed, it can be quite interesting, since it touches on questions about the fundamental goals of policing. So did the committee indulge in debates of any length?:

Not really, no we didn't. When we first started, I think we probably went into too much depth - you know, crossed "i"s and dotted "t"s and all that - but after a while...we weren't blasé, but we knew how to approach things, and we weren't overawed by the fact that it might have been a very...quite a serious offence. And we considered that, firstly, we had the power, firstly, to do it, and secondly, we thought that that would give the best outcome.

This approach by the committee would appear to be reflected in statistics showing a rise in the proportion of cases recommended for conference rather than court between early 1992 and late 1993. There was a familiarity with the procedure for choosing between the two options, in addition to a growing confidence in the conference process itself. But another reason for the relative haste of the committee's decision-making procedures was that the detailed work had already been done by the investigating officer. This included the option of a recommendation, as part of the paperwork, that a case be dealt with by way of conference. Where such a recommendation had already been made - where the relevant box had been ticked - the committee had only to ratify that preliminary decision:

Q: Well, a lot of work had been done in advance, of course, by the investigating officer.

PAUL: Pretty well...*all* the work had been done.

Q: So you were just exercising discretion on the basis of work that had already been done.

PAUL: Exactly! So we had little to do other than look at the criteria we were using as to which way they should go. I, for the bigger part, didn't know probably ninety percent of the kids that went...- their papers - went past. I wouldn't know them from a bar of soap. I would say this: that probably some names you'd recognise, and that might have activated our minds a bit more. But that's part of the job.

Apparently the committee meetings have caused greater consideration to be given to the issue of the consequences of police intervention. Paul talks about changing perceptions of the value of custody in the criminal justice system generally:

They learn everything that's wrong in there. Well they feed off one another. They build their egos up while they're in there, then they get out, and they're looking forward to going back. Whereas with the other way, I think if you can face them with the victim, you can show'em a little bit of humanity - which they probably don't get at home anyway. It might activate some of their minds in a positive way.

This reassessment of the role of policing within the local community extends to a reconsideration of the motivation for particular police actions. Again, the review committee seems to have played a role in this reconsideration:

PAUL: It's not a lengthy procedure. Once police know the ropes a bit - I could put it that way - it doesn't take that much of your time. There is an acceptance generally, be it grudgingly or otherwise. It's been a learning experience for the blokes that do the arrest. They couldn't come to terms with it.

Q: Because they thought their efforts were being...wasted, if you like?

PAUL: That's probably the nub...I was looking...thinking about words last night...Probably that their efforts had been wasted, they didn't get their pound of flesh. That's our mentality.

Q: Sure. Well, you want a result.

PAUL: Yeah, because we put ourselves up front to take somebody in. And it's a very traumatic experience - surprisingly enough - for us, when you've got to go to court...And I think it's "them and us". And that's why police want their pound of flesh. [...] I would say that anybody that goes to court - even regularly, and a senior officer - would still be a little bit traumatised every time they walk in the box, because of the unknown factors. I know, even if I go to court now, I'm still nervous, and I've been doing it for thirty five years - less and less as I get more senior, because I'm not on the street that much.

Paul suggests that the resistance of police to change - himself included - has a lot to do with the emotional pressure of the job. resistance is a strategy for psychological survival. Did the cooperative nature of the review committee have something to do with overcoming this resistance and with gaining the acceptance of committee members for the new model?:

If you could involve more - which we did occasionally, we involved junior persons...That helped us. We didn't sell the scheme. I think it eventually sold itself. I would suggest that the more involvement police have on it - the physical doing of it - and I wouldn't say if they're arresting the bloke, they're involved in the panel. That'd be the wrong way to go - But let them involve themselves in other kids that have been...detained, and let them see that there's an outcome there. And they should also see the panel at work, and the conferences. They've got to see that, I think.

Q: Terry O'Connell certainly pushes that line - if possible, get the investigating officer to join the group. It's interesting. You were saying how traumatic it is, even after thirty five years of going to court. In terms of the way the conferences run, is it quite legitimate to sit in the investigating officer as a victim of the crime - because you've suffered from it?

PAUL: There's a thought!...That's a thought! I never looked at it that way, I really didn't.

Q: I mean, [you and your colleagues] suffer every time a crime's committed.

PAUL: Yeah. In some way, we do. Yes. There's the adrenalin rush, I suppose, at the initial time you're looking for somebody, and probably when you get them, but then the hard work starts...It's got its distressing moments. The fear is always there that: I've detained this person - am I going to get a kick in the arse out of this, in the long term, if things go wrong? You need to involve the police, in some form, in the judicial system...as it pans out. They are my personal thoughts, but I think that I'd echo the sentiments of quite a deal of the middle range of management.

Again, the involvement of investigating officers in the conferences seems to have been the sort of initiative that is obvious in retrospect, but which required a new way of seeing the world. Thus, the suggestion that police officers are "indirect victims" of a crime - because they are emotionally affected by it - strikes Paul as correct, but he had not previously seen the issue in this light. Similarly, he agrees with the paradox that family conferences give police a greater sense of control over their operations - even though they do not control the outcome of conferences:

Yeah. I do! It's an involvement of police that normally wouldn't have any involvement. They can see if the bloke's arrested and he goes to court, there is a chance he's going to go to the slammer. They saw this when it initially started as, "It's all going to be a wishy-washy bloody caution with no result!". But to me, if I was a victim, I'd certainly like to have my day in court, or day somewhere, where I could speak to that bloke that perpetrated the crime or whatever, and I would like to look at restitution. That's a big

plus for it. If that could be ever *totally* legitimised - and I don't say that it isn't now, but there are some areas around it that concern me, about its total legality - that'd be a big thing: asking for repayment. I suppose you're only asking, and if they don't pay there's no...there's no enforcement there.

Members of the review committee were aware that agreements reached in conferences appeared, nevertheless, to have been honoured in nearly all cases - beat police records suggested well in excess of ninety percent. Did they take this into account when deciding where to refer some cases?:

We did. I said, "Look, I know if this fellow fronts court, it's going to be a slap on the wrist; 'Away you go!'; a bond perhaps". This way, you're getting some positive result back for police gratification - whether that's the right word, I don't know - and also for the victim. And they're the big positives.

Q: Well, you've a right to get some gratification from your work.

PAUL: Yes. Job satisfaction. But I...look, if you'd have said I'd be involved in this twenty five years ago, I'd have said, "Hey! You're joking!". But these times, you've just got to look at alternatives. Providing it's not overdone, providing it's done genuinely - by police that give it some thought - it's good.

Q: Well why was it, when this came up three or four years ago, you were prepared to get involved, where you might not have been...

PAUL: Ah...I was asked to do it. Terry's got a lot of terribly good ideas, and I thought: You've got to give'em...you've got to sort through the chaff to get to the wheat, and I thought, "I'll give it a go". And I was pleasantly surprised. I think if you...simply, too, if you become involved in it, you want to see it succeed. And if you got more involved in it, you would have a better chance of success. But there was no force...for us to achieve all the time. As I said, nobody I know was made go there, and sat down and had the shits. You know: "I don't want to be here, this is all shit!". I didn't see that. Perhaps we should have gone one step further and got those who had the shits with the whole system, and let them see it. That was probably the way...given time, that's what should happen.

Q: I presume they're still walking around mouthing off about it?

PAUL: Well, not to me. But I, in fairness, I don't spend much time over there now. I'm highway patrol now. And I don't speak to them much at all. But if you got'em in the pub, some would probably...some would still say, "Aaargh, it's a shit thing, but we've gotta do it!". But there's grudging acceptance by most people, and half of them would think it's a reasonable way to go. And there's no fear attached to it now, with the system we're using. Everybody knows what the system is now. The biggest fear, and reluctance to change, is that people don't understand what's happening. They do now.

Paul ends with a case for extending the model to include certain classes of offence committed by adults. In particular, he finds it both futile and painful to deal with most cases of adult shoplifting by way of court. The success of the process for dealing with juvenile crime has convinced him that, with the right safeguards, the process could have many other constructive applications.

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### Conference Coordinator

As a member of the beat police, Tom began to coordinate conferences in the middle of 1992. His initial preparation involved sitting in on several conferences run by Terry

O'Connell, reading all available material on the program, watching some video material on the development of the model, and receiving additional tuition from Terry O'Connell. After all of that, was he feeling confident when he convened his first conference?:

Oh no. It's sort of a bit unnerving. You don't know what's going to happen, but you gain confidence from running a few of them, yeah. It's the same with anything, I think...The first couple I had, though, weren't too complicated. They were fairly simple offences, and the offenders were sorry for what they had done, and the parents were onside. So it was very successful. And then you get a couple of hiccoughs, with some parents who wanted...who were sort of arguing with each other, and wanted to prevail over the other offender..

Tom has since left the beat police as part of a staff reassignment within the patrol. In the thirty or so conferences he ran before he left that position, Tom dealt with a couple of cases where someone other than the victim had to represent the victim's case in the conference. He also convened two conferences in which the situation needed to be "reassessed". Both conferences were stopped and reconvened at a date suitable to participants. But he was then satisfied with the process and outcome of these conferences - indeed, he says he is satisfied with all the conferences he convened. So he thinks the program has been worthwhile?:

Yes. When you're doing them, you know if it's going to work. And once again, about ninety percent of the time - or more - you know that the offender is sorry for what they've done, and probably will never, ever commit an offence again - especially when they, you know, they break down and cry, and they realise that they've put so many people out, and they're very sorry. And they're the ones where you know it's all been worthwhile.

Q: Well, if you're getting ninety percent success, that's a pretty high rate compared to the court or other alternative schemes?

TOM: Yes, I think so. That's...I'm only guessing that it's ninety percent...

Q: Yes, sure. Did you see any of those kids, who you thought had gone successfully through, come back again?

TOM: No, the ones that I had a funny feeling they'd come back - they came back. Yeah, yeah, because I was not only doing the offender conference, I was doing the...panel - where we decided whether it was worthwhile either cautioning them or putting them before the court.

Q: And the kids who came back had committed - what - property offences in most cases?

TOM: Yeah, mainly property...malicious damage, steal...

The statistics for malicious damage in Wagga are quite high by state standards for the simple reason that, as Tom and many of his colleagues point out, "everything gets reported here!". This is a dilemma for police - rates of reported crime rise along with the willingness of people to deal with police:

Exactly - and they don't have any hesitation in reporting anything to the police here. They've got a terrific relationship with the police - the people in this town, more so than just about any other town I've been to. [...] Going back - oh, I suppose - eight years, they put this big push on community based policing, and we're really seeing the results now - from that.

Q: It's taken that long to start showing results?

TOM: Well, you're seeing them now. You could probably see them before, but I'm just saying that you can't see community based policing results right from the beginning - especially with school lecturing, all that sort of thing. This is when it starts to show.

Given these results - and the extent to which the initiatives of the beat police are given credit for them - does Tom have any comment on recent pressure from outside the patrol on the beat police?:

Oh, no. Human nature's a funny thing - isn't it? You know, as you just said, it's jealousy, and all that sort of thing, isn't it? But I've full faith in my patrol commander - I think he's done a fantastic job...He's really [supported] community-based policing...So it's a shame if it is being sabotaged in any way, shape or form.[...] It's the same with everything in this job, I think. There's a change every day. And probably a lot of them think, with all the new changes, they say, "This is just another new-fangled scheme" - but it *is* working...

Q: Well, at two levels. I was just talking to [Paul] about the people on the review panel. It strikes me as an interesting concept to have a group of you sitting down every week and talking about the merits of a program, and also talking about, in a sense, what your real goals are, why you're bothering to run this. Did you find sitting on that review panel an interesting or worthwhile exercise?

TOM: Oh yes, definitely. Well there are so many people in the policing field who debunk the system or knock the system because, you know, they can see that it doesn't work. Here's a chance where police - who are saying, "Kids are going to court and they're *laughing* about it!" - here's a chance where they can come and sit in on the panel and make a decision concerning the kids. And it has been developed to give them the chance of a caution. And under this scheme, those victims are entitled to get compensation, you know, if the offender does agree to pay a certain amount of compensation.

Q: Was that the biggest issue, for you? I mean, let's say you had to rank factors in play at a conference - would compensation have been most important?

TOM: No. Victim satisfaction...You know, a lot of victims are having things done to them and under the judicial system they're saying, "The fellow that did that wouldn't have a clue who I am, and wouldn't give a damn about doing it again!". Whereas now, they're facing their victim, and that victim will be satisfied that, if they walk out of that conference, they'll be able to say, "Well, that was great!". [phone interruption] So I think what ranks among the top things is: the victim satisfaction, if the victim's satisfied; whether they get compensation; or a thank-you-...a sorry-letter, or just a straight out apology - well that's the main thing.

This ranking of the issues does not match that of colleagues who have not had the benefit of coordinating conferences. Why is the issue of victim satisfaction so significant?:

Well when the victims are satisfied, they're satisfied for several reasons. One is that they've faced...that the offender's faced them and they've had a chance to tell them how they think, you know, how they've suffered for it. They've got compensation back, you know, if that's part of their satisfaction. They're probably also satisfied because that person is not going to offend again in their eyes. They're certainly not going to offend against *them* again...

This concern with victim satisfaction underlies Tom's concern that a permanent unit or sub-unit be established to deal with family conferencing - particularly with follow-up. As it is, there was positive feedback about the conferences - but it was usually received by chance:

Yeah, yeah. Well, you'd run into some...fellows that were offenders, and the ones that you knew were going to offend again you'd run into at the station...they'd returned; but you'd see some of them in the street, and they'd always say "G'day" and "How are you going?" - "Keeping your nose clean?" - "Yeah, no worries, yeah".

Q: Well had you had that - where you'd dealt with kids and had put them before the court - you know, the same sort of interaction as after the conference?

TOM: Ah...Not really, no. I couldn't say I had.

Q: So it changed the way they treated you as a police officer?

TOM: Oh yes, I think so. They became more of a friend rather than an enemy, because you'd done them a favour in a way.

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### **Police Prosecutor**

Here was an interesting interview opportunity - a police prosecutor recently arrived from another patrol who had experience of an "alternative alternative", the community aid panel. Kerry had, however, not witnessed a family conference. Nevertheless, he was well aware of the program in Wagga Wagga. Some of the young people with whom he had dealt at the local court would have been eligible to attend a family conference but had wished to plead their innocence in court instead. So, on the issue of these alternative options in general, what had he made of the community aid panel?:

Community Aid Panel? I thought it was...I'm quite a cynical person in that regard, but I thought it was...I was very cynical to start off with, and I worked at W\_\_\_\_ with the magistrate and one of the people who initiated that scheme, and I looked at people, particularly, who had not been employed, or had been employed...had been unemployed for some time before they went onto this Community Aid Panel, and what impressed me about it was the fact that a lot of them obtained employment from it. I was very impressed with it overall. I thought, it was well organised, the police initially were suspicious and cynical of it, but they seem to be fairly enthusiastic about it - especially in the Wyong area, where it first started. I can't say as much for other areas, because I didn't have that much contact with them, but generally I thought the police were fairly enthusiastic about it, and I thought it was a good idea. I thought it worked well, and I was surprised, in fact, when I came to Wagga, that it wasn't working here.

That scheme had been offered central funding since it had met with the approval of the then Premier. But there are several differences between the two processes and between the models that employ them. Some differences between the processes are discussed in the first chapter. A key difference between the models is that the community aid panel is offered as an adjunct to courts, whereas the family conference in Wagga is being run as an alternative to courts. Did Kerry see any problems with that?:

No, no I don't. I think young people, no matter what their background, deserve...everyone makes mistakes at some stage. Mostly, the matters are relatively minor. There are some more...major ones, of course...I think...well philosophically I don't know. I don't know whether going before the court would have any greater

deterrent effect on them in relation to those serious incidents, or whether in fact it does. No, I don't know, I don't have any problem with it. I think, in fact, it's probably a good idea.

Q: I suppose an additional argument in favour of it is that victims have some direct involvement...

KERRY: Yes! Yes.

Q: ...in the conferencing system.

KERRY: That's true. Depending upon the crime...alleged. I'm a little bit sceptical of it. That's bearing in mind that I have never spoken to a victim, that is, perhaps, of an assault, or something like that. I would initially - and I still am, without taking it any further - I'm a bit sceptical as to how people would feel - that is, sitting across the table from someone who assaulted them. I don't know how it works. It may work well. It may gain some satisfaction, it may be some type of revenge motive - I don't know - on their part. I don't know, it may give them some satisfaction, but I'd be a little bit trepid as to whether in fact some people would want to face people that had hurt them, that had assaulted them in particular.

Of course, if victim participation is entirely optional, this need not be a problem - police may allow themselves to be surprised by the willingness of victims to attend. But how does someone who currently works in a prosecutorial role - on behalf of the state but also, therefore, of victims - see the role of victims within the justice system?:

I think the perception is that the victim's needs are very often, ignored. That it's more geared towards the rights - perhaps that's not entirely the correct word - of the defendant. I think the victim is so often ignored. That is, if you've got - and that's where this cautioning panel may be a better option...In the court situation, if for example, somebody pleads guilty to an offence, but they do not agree with the facts overall - then it may be a dispute of the facts, it's not really a plea of not guilty, it's a plea of guilty but they dispute the facts. So, a lot of times I've had, where the victim...the police have not been able to get that victim to court - whether it's because they're frightened or whether they're moved, or for whatever reason - they then - the courts - the only version they have is the defendant's version of what happened. And it's almost unavoidable in some circumstances - if the victim is not there - but the victim...I've been...I think society in general, in relation to young people, are a lot more tolerant than they used to be, and that's good in a lot of ways, but I think the court system, I don't think, can make to young people a deterrent at all, because they treat it as a joke. They laugh when they're waiting outside, they laugh when they come in - all the time - and they laugh when they go out.

Q: Well that's got to be frustrating for you hasn't it - as a prosecutor?

K: Oh, no, because I don't...I...I get used to it. It doesn't particularly concern me. Sometimes, if it's a more serious offence, it might be, but if it's a more serious offence normally they don't. It's normally just, you know, run of the mill offences. No, I don't get frustrated by it. I just get frustrated by the length of time it takes for juvenile matters to proceed before the court, that is because, you know, the reports are obtained, and then...

Q: It can take a couple of months?

K: Oh, sometimes, sometimes. Or just on the day - you know, what we do here, we have an adult and juvenile charge list, and we run it on the one day. I'm hoping that will change, that we make juvenile matters on separate days, so we can concentrate on them. Normally they have duty solicitors, and they take time to get their instructions, and they're hard to take instructions from, obviously, because, you know, they're relatively young, and they muck...just muck about, muck the system about in that they'll plead not

guilty, then they'll change their mind and plead guilty, and it's just a time consuming thing. That's the most frustrating thing, to me, sitting in court. But I don't have any problem, normally, with the penalties they receive. We, as police prosecutors, don't have any right of appeal at children's court. We do from local court, that is, if we think [the magistrate]...the sentence is manifestly inadequate, or we think the magistrate's erred at law, then we have a right...stating cases. But we don't in the children's court.

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### **New Head of Beat Police**

Having also been a police prosecutor, Bill is moving across to beat police. It's quite a transition - moving back into uniform, and moving to a different philosophy. Why had he decided to make that transition?:

A number of reasons. I suppose health was one, because I was finding in the end that I wasn't very happy there. It was becoming very repetitious for me. Every day was the same sort of thing. I know you may have different defendants, you may have different types of things that you're putting before the court, but the structure in which you put those matters before the court is the same, and it's just...I suppose it's the same difference between a white car and a blue car, a white commodore and a blue commodore. And I just found in the end that I just wasn't being fulfilled and it was affecting my health, and there's no...It's a very...restricted area for advancement in the service. Any country police prosecutor that wants advancement basically has to look to the metropolitan area, within his or her...within that area. and by coming across to the station under the patrol structure, you gain that invaluable thing called supervision experience. Although you are supervising police in a...you're doing a form of supervision as a prosecutor, you haven't got the hands-on supervision the sergeants have in the station. You're purely an advisory...it's an advisory role, not a direct, hands-on...

(A long discussion ensues on matters of promotion, police governance, and the balance between central coordination and local responsiveness.) The conversation turns to the program that Bill will now be responsible for administering. Presumably he would have a special perspective on these issues after many years spent in prosecutions?:

Yes, there's one fallacy I see with our system - well, with any caution...police cautioning system - there's one weakness in it that I see, and that is that I believe there should be a legal recognition of a police caution in the courts. The reason I say that is that magistrates are required to consider cautions under the Children's Criminal Proceedings Act, and most courtroom cautions that I've seen in my service - and I've worked in Children's Courts in the metropolitan area, I've spent two years at \_\_\_\_\_, and most cautions I've seen administered by a magistrate have basically been...a presentation to the magistrate, or the facts of the case...the young person acknowledges his or her responsibility, whatever the particular matter is, their solicitor or the duty solicitor makes a quick plea on the basis that this is the first time they've ever been in trouble, everybody in the room realises - except the young person, of course - realises that, right, we have a minor - usually a minor - offence, first time the young person's been before the court. The second time...perhaps the victim's not out of pocket, perhaps the victim's been compensated already by the young person, if it's a matter where the victim has suffered any form of loss...or it might be a victimless type crime...smoking a marijuana cigarette, or swearing at somebody in the street...All the professionals in the

room quickly recognise that this young person's going to get a caution, the magistrate utters the magic words, and usually, once again, like...the police officers, if the magistrate...if he or she wants to get their point over a little bit more than they might perceive magistrates do, they may talk to the child directly, and they may try and get them to understand why they're being cautioned, but usually that's...I found that was the exception rather than the norm. Usually it was just a quick...because of the pressure of work, through the other thirty or forty cases that have to be processed in the course of the day, if Johnny or Mary are told, you know, you've been a naughty boy or girl, if I see you back here again, I'll have to deal with you more harshly, and I suppose the court relies, too, on the young person's legal representative to explain to them more fully, out in the foyer or out in the car park, exactly what a caution means.

Q: But about thirty percent of them then do come back, don't they?

BILL: Yes, and I think that probably the reasons for that are that the person...the subject of all this has probably just sat there, confused as to what's going on....or it's all going over the top of their heads. They're probably have very little cognisance of the fact that this person up there is the magistrate, and they're telling them...they're just speaking to them rather than to their parents, or to their solicitor. Perhaps when they get outside it's all a blur. Certainly I would imagine when they get back with their friends and that and they want to know how they got on, they probably...the automatic response is, "Oh, I got off!". So that there's no real...the subject...has been allowed to step aside from whatever culpability they should have in that particular matter.

Q: So you're not particularly concerned by that aspect of the court process, but your main concern at the moment with this conferencing process is that it's not formally linked in with the court process - insofar as, at the moment, a prior appearance at a conference isn't registered for the sake of future court appearances?

BILL: It's...we keep a record...and in my experience as a police prosecutor, in a lot of cases you would...police would - not all police but some of them - would invariably have a confirmation of a police caution...It might appear on the documents that that particular child may have had two or three cautions. You...are bringing it to the attention of the presiding magistrate for his or her attention, but they have no obligation to have any regard for that - legally. And, in fact, the way the Children's Criminal Proceedings Act is written now, there is little scope for them to have regard for it, because, when a child's dealt with by the police in a cautioning situation, there is...although they've been...they may have been detained and...all the normal procedures, short of actual charging, have been gone through. They're not charged, and when they're dealt with in our cautioning system, they're not convicted of that particular matter, because we haven't charged them, we haven't placed them before the court. The magistrate's constrained by the Act, and there are a number of alternatives the magistrate has which fall short of conviction once again.

This highly technical approach to issues comes from years of working in prosecutions, Bill admits - "I'm the animal that the system made me!". It becomes difficult to accept measures of success other than convictions. But he then describes a recent conference in town in which two boys, who had - unthinkingly - come close to causing a major train derailment, met with a number of local rail workers. The conference could be considered a success. Among its results was a demonstration to the boys of the trouble to which investigators went in such cases. This same issue had arisen in other interviews:

Q: So it's showing that police are people who suffer from the consequences of crime?

BILL: Yeah, well perhaps in this case that's probably overstating it, but what I'm driving at is the fact that one person may see that as an act of vandalism or throwing

stones at somebody's house or a passing train as harmless fun, but the matter, on being reported, is investigated by a couple...say a couple of police officers, who are there to serve the local community, and diverting them to that investigation, they may not be available at that particular time, to answer a really urgent call, where somebody else is really...has real need of the police. So it's the old cry wolf situation. If you ring up a bogus call to the fire brigade, whilst they're answering your bogus call, somebody's house may be burned to the ground.

Q: Yes. So you've got the victim, the offender, and the investigator there - are you happy with the notion of having the families or friends of victims and of offenders at conferences?

BILL: Certainly the immediate family, because...in all...in police matters, or justice matters, justice must not only be done, it must be seen to be done. It must be done fairly, so that...I wouldn't like to see the situation where, no matter what the child's done, is where he or she is taken into a room by themselves and surrounded by a group of hostile people. They must have their support there too. But the real...I think the real value in conferencing is that...and this is an analogy I use a lot...If you're an alcoholic, you usually go down, and you go down, and you go down...until you reach the point where you say to yourself...if it's not too late, "I am an alcoholic"...[phone interruption]...Yes, an alcoholic. And you can do very little with an alcoholic until he or she reaches the point where they throw their hands up and admit, and realise they're an alcoholic, that they've got a problem and they need to do something about it. From that point on they usually, with assistance and treatment...they can recover - although it's a day-to-day process.

Q: But they've got to do it themselves?

BILL: Yeah, they've got to get to that point where they admit they're ill, and they've got a problem, and they want to do something about it. The rest of us around them can try and help them, but they'll keep falling down. I think it's the same with the criminal...It amuses me when you hear people speaking in the media, and speaking generally, saying that we've got to do more to rehabilitate criminals, there's got to be more emphasis on rehabilitation et cetera, et cetera - and services. Well perhaps they're right in a way, but until that person, I feel, like the alcoholic, says to him or herself, "I'm a criminal, I've got a problem, I want to do something about it, I don't want to live this type of life", and they reach out and ask for some help, and they're genuine, and they apply themselves, then they'll always - I feel - they'll always stay where they are. And I think, getting back to that conferencing, I think this is one of the things that comes out in the conferencing. The young person may not come to this realisation that they've got a problem, but at least they'll come to the realisation when they sit there and they listen to the victim's speech about how it affected them, and they can see that perhaps they're angry or upset, or they're hurt, that this is sheeting home to them...some form of responsibility. And perhaps with that may come the realisation, "Well, what I thought was a harmless thing..." or "What I thought it was my right to do...well, that was not the case". And if they can come to that early realisation - and I feel this type of cautioning system will facilitate a young person coming to that conclusion a lot easier and a lot quicker - that the justice system will have time for them...because they're not...in the court system they're not brought face-to-face with the results of what they've done...unless of course they plead not guilty, and the witnesses are called...but even then, because of the nature in which the...the nature in which the matter is conducted, they can still, I think, evade that personal responsibility.

Q: Make sure that they don't actually feel it?

BILL: Yeah! They can maybe, perhaps in their own minds, think, "Well, it's not my fault that all this has happened!", and they can perhaps deflect the psychological

acceptance of blame. But under this type of conferencing system I think it's very difficult for them to do that.

(Following another lengthy discussion, this one on the psychology of victims:) There is now the question of continuation of the effective cautioning scheme. With a temporary shift in priorities in the regional office, resources are a problem for the beat police. Will family conferencing continue in much the same form?:

B: Well that's my hope. There is a...there is a fair amount of work just to set up a conference...And coming in without any continuity at the moment, I can't even...I spent one day last week just sort of establishing where all the paperwork is. These files here all represent one matter, where there were a number of children involved in a vandalism of a local school. So there's...I think there's six children involved in that...So there's six families to contact...To arrive at a common date and time that is convenient for them to all turn up...and I suppose in that regard I can be reasonably autocratic, I suppose, and say, well, "such and such a date is the most suitable date - you be here!". And of course, the more autocratic you are, the less, I can imagine...the more resentment there'll be. And if a person comes into the situation full of resentment, that's going to be a negative. I suppose it'll have to be a balancing of those two extremes. Because otherwise it'll be impossible just to get people to the starting line.

Q: That's certainly a tough one - six offenders. But on the other hand it does show that one advantage of the scheme is that you're dealing one off, once you've got the thing set up, with something that would otherwise be six separate incidents.

BILL: There's only the one victim, of course, and basically it's a representative from the school concerned. But that's probably a reasonably topical type of matter, too, because there's a lot of school vandalism statewide...

Q: But in that one - just on that point - wouldn't you invite *anyone* at the school who's been affected by it - rather than one victim?

BILL: To be honest I hadn't given that...any thought...

Q: Well, I've seen quite a few of these - and they're the only ones that I've seen go wrong - where the officer involved has, rather than having thought it through in terms of "Who's really been affected by this?", thought in terms of "Who has official status?". And because it's very easy to overlook this notion of running this as much for victims as for offenders, you often find that people who don't get invited - people who actually feel that they are victims - end up, when they find out, feeling angry that they weren't invited.

BILL: Are you thinking - in this case of the school - perhaps pupils of the school?

Q: Well I've watched several conferences at schools where the coordinator's ended up inviting half-a-dozen people from the school as student representatives - who the students elect as student reps; teachers whose specific rooms were damaged; the cleaner - invariably - has to deal with the damage and so is the person who feels most affected by it. And then you have a very effective conference. It really has an impact on the kids.

B: Yes...

Q: But *you* don't have to do all that work! You just need to contact one person in the school who can do that work for you.

B: Yes, I can see that. I'm glad you outlined that, because I was looking at...when you raised the problem initially I was looking....when I picked up the file the other day I was thinking in terms of the headmaster, deputy head, or an official like that representing the school.

Again, the philosophy of a different process and different area of policing is being brought to bear on the beat police:

When you initially started to raise your point, the first thing that...the first objection that came to my mind was that - which probably reflects my prosecuting background, and this is perhaps a matter that I'll have to address in the future, is my own attitude - the children's court matters...the acknowledging of the perpetrator outside the courtroom is paramount [sic]. You cannot identify young people in the press outside the courtroom because of the philosophies of the children's court...it puts a restriction on that...And I can see how that has influenced now my thinking. Because...I would have been reluctant to involve other children, because it would have identified the perpetrators and a possible repercussion from that is that those in themselves may become victims when they go back to school. But in the form that you've indicated Terry's handled prior cautions in the school situation, I can see that the potential for reverse stigmatisation may be reduced.

The counterargument to this legal formalism is that the more people one invites to attend a conference, the more one protects oneself against these difficulties. The anonymity sought by these legal strictures may also be illusory - since all those involved have to continue to live in the same community. The process cannot be artificially separated from the community of people involved. Nor does the process deprive anybody of rights. It has been argued, rather, that it extends rights. It gives victims rights they didn't have before and also - to borrow Bill's alcoholic's analogy - for the first time gives young people the right to really understand the consequences of their actions. This, of course, is a very different use of rights language to that used in court. Bill agrees:

And, of course, I've seen how a lot of these autocratic type rights tend to give results, too, that are not intended. Where young people are victims of crime, particularly sexual abuse-type crimes, the victim is not to be identified, where the perpetrator - the alleged perpetrator - enjoys a certain relationship with the victim - it may not necessarily be a biological relationship, it could just be a geographical relationship - but because of that relationship, because the law protects the victim from publication, I've seen a lot of perpetrators also seek to bring themselves under that same cloak. In other words, "If your worship allows this matter to be reported, even if we suppress the victim's name, if the matter's reported by referring to the victim as a young person, because of the particular profile this offence has in the community, if you identify *us*, the community will also be able to identify the victim because of the relationship we have with the victim". So that the perpetrators are drawing themselves under that cloak, too, or trying hard to protect themselves from public ridicule and abuse, and the complications of that...

To a large degree, these responses speak for themselves. Involvement on both the review committee and in conferences - as coordinator or as investigating officer - seems to have had a significant effect on police involved. Their responses are in marked contrast to those of police who, during a training session, revealed their frustrations with the existing system for dealing with young people who have been accused of offending against others. The responses of police who had been involved with the Wagga model are also in marked contrast to police from a prosecutorial background. The latter find it difficult to measure success other than through technical measures of official processes - even while they admit that these processes do not achieve the ends which they are purportedly designed to achieve. Those who have been involved with the Wagga model use various measures of success. These measures include rates of

reapprehension, but also the honouring of agreements and the level of victim satisfaction. At the same time, there is a case for institutionalising arrangements for follow-up. So there is a need for technical improvements to the model. But this small sample of middle management views suggests that a cultural shift from retribution to restoration is well advanced. It remains an open question whether police need to be involved in all three aspects of the model in order to be affected by this cultural shift. And if not, which of these aspects of police involvement in family conferencing have most influenced police culture: (1) attendance of investigating officers at conferences? (2) coordination of conferences by police officers? (3) participation by police on the weekly review panel? Finally, would the influence of family conferencing on policing be more significant if there were an institutionalised program of follow-up at some set time after conferences? Adequate answers to these questions cannot be provided solely by the Wagga experience. What does seem clear from that experience is that, if police are not significantly involved in the program, it is all too easy to slip back into the mode of measuring results through court convictions. This traditional approach generates a great deal of frustration and anger on the part of all concerned - but it has the benefit of producing an easily measured indicator. The Wagga model replaces that single indicator with a set of indicators, including: participant satisfaction; honouring of conference agreements; rate of reapprehension. But unless police are fully involved in the model that measures these indicators, there is little incentive for them to change. As these interview responses show, however, when police are involved with this more complex model, they find the new model far more satisfying than the traditional alternative.