

## RECOMMENDATIONS

By the end of 1994, some version of family conferencing had been trialed in several Australian states. Evidence from Wagga Wagga has thus been supplemented by evidence from other patrols and jurisdictions. That additional evidence has been taken into consideration in the preparation of this list of recommendations. The recommendations fall into three categories: (1) Recommended paths for implementation of a conferencing model; (2) Key features of a conferencing model in juvenile justice; (3) General principles for preparation and coordination of a conference.

A key recommendation of this report was to have been that the Wagga model be trialed in other Australasian jurisdictions. That recommendation stands, but is now superfluous: Following a meeting of the Australasian Police Ministers Council held in Sydney on the 16th of December 1994, the New South Wales Police Minister and council chairman, Gary West, announced that all Australian States and Territories would conduct a trial of the model during 1995.<sup>1</sup>

The remaining recommendations of this report are as follows:

### **(1) Recommended paths for implementation of a conferencing model**

- *Detailed legislation should be avoided unless absolutely necessary*, since detailed legislation limits the flexibility and adaptability of the model.
- The attempted monopolisation by any agency of the model's central process, the family or community conference, is unnecessary and may also be harmful. *Systemic monopolisation of the conferencing process should be guarded against with vigilance.*
- *Agencies most suited to coordinating conferences in particular arenas should be identified.* In most cases, the responsible agency should be quite obvious. Education departments, for instance, will be responsible for coordinating conferences to deal with cases of victimisation in schools. Police services will be responsible for coordinating conferences at the gates of the criminal justice system. Courts may consider how a modified version of the conference process may be introduced as part of the official response in cases currently considered too serious to be dealt with other than through the courts. Departments of corrections may consider how a modified version of the conference process may be used to achieve more social reintegration of those people who have completed a custodial sentence.
- *Implementation of the model should be local.* This is in keeping with the general philosophy of ceding power from the state to civil society, and strengthening civil

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<sup>1</sup> "Ministers to make young criminals meet their victims", *The Weekend Australian*, December 17-18, 1994, p.10

society in the process.<sup>2</sup> In the case of the juvenile justice model that is the subject of this report, local implementation is also in keeping with that interpretation of "community policing" which defines communities locally, and defines policing primarily as peacekeeping.

- *Collection of data on the model should be centralised.* This will maximise consistency in the evaluation of local programs. It will maximise feedback about what does and doesn't work, and thus help to build a significant body of knowledge about conferencing. It will avoid the replication of mistakes. It will improve training for conference coordinators.
- A standardised package for training and accreditation of conference coordinators is being developed in the Australian Capital Territory. The package builds on the experience of the Wagga program, and of other patrols in New South Wales and Canberra. *Jurisdictions looking to trial a version of effective cautioning using family group conferencing should make use of this existing knowledge base when seeking to trial the model.*

## **(2) Key features of a conferencing model in juvenile justice**

- *Police services are the logical agencies to convene conferences for cases involving young offenders.* Police services are the logical agencies because of the relative speed and relative efficiency with which they can deal with such cases. They are the logical agencies because of their apparently superior ability to engender a sense of safety and thus to encourage attendance by all parties affected by an incident. In addition, relations between police and some members of the public appear to be improved as a result of police involvement in conferencing. Furthermore, direct police accountability to the public is increased when police participate in a process attended by all parties affected by an incident.
- The four key areas of police involvement in the Wagga model are (a) as members of the weekly review committee, (b) as conference coordinators, (c) as investigating officers voluntarily attending conferences on the grounds that they were affected by the incident, and (d) in providing a follow-up service some time after a conference to ascertain that the conference agreement has been or is being honoured, and to provide some sense of reassurance to all parties.
- (a) *Police (sergeants) attend the review committee that determines whether cases should go to conference or court.* Police attendance is essential since the committee uses the discretion provided for by the common law principle of constabulary independence. Police interviewed as part of the evaluation of the Wagga model suggested, furthermore, that their participation on the committee had had a significant and positive influence on their whole approach to policing. *There are, nevertheless, no good reasons why the review committee must consist solely of police.* With appropriate safeguards of confidentiality, other local

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<sup>2</sup> An elegant (two volume) treatise defending these principles within the tradition of political philosophy is provided by David Selbourne in *The Spirit of the Age*, London, Sinclair-Stevenson, 1993 and *The Principle of Duty*, London: Sinclair Stevenson, 1994

community members might also attend weekly review committee meetings. For example, the attendance of legal service solicitors on the review committee would be particularly valuable in those areas where legal service advice has discouraged some young people from ever admitting culpability, and has thus denied those young people the right to a caution rather than court. A long-term cultural change is required in such areas. Police, legal service solicitors, and their clients will all need to be party to that change.

- (b) It does not, at first glance, seem essential that conferences are actually coordinated by police officers. However, experience from Wagga and elsewhere suggests that *participants are more willing to attend a conference if the conference is arranged by police*. And experience from Wagga and elsewhere also suggests that *the person who arranges a conference should convene it*. This is because the person who arranges a conference will have learned more details about the case than are contained in the case papers, and because the process of arranging a conference will have established a degree of trust between the responsible officer and conference participants. Attendance is likely to be maximised if the conference is arranged by a police officer. Furthermore, the uniformed police officer as coordinator also seems to lend a certain gravity to proceedings. There is a final and significant reason why police should convene conferences. As is clear from the conference transcripts reproduced in this report, a considerable degree of kudos can be derived from convening a successful conference. Police are generally far more likely to cooperate with a conferencing program if the kudos from the program accrues to them, rather than to some other agency whose members step in to take the credit after police have done all the hard work.
- (c) *Investigating officers should be encouraged to attend conferences*. For participants, particularly victims, this additional police presence apparently increases their sense of security. It may also help to ensure that participants not to diverge from the facts of the case (although they do not normally appear predisposed to do so anyway). For the investigating officers themselves, attendance at a conference enables them to see a meaningful outcome for their efforts. For other police, "war stories" about conference outcomes - as told by investigating officers - seem to encourage support for the conference process.
- (d) *More systematic arrangements should be made for official follow-up in the wake of conferences*. This recommendation was made both by police and by conference participants. Their mutual concern was that some contact be maintained between police and conference participants, and that some assistance be given in the event of conference agreements and related arrangements having come unstuck. In most cases, a phone call would seem to be sufficient to reassure participants, and to offer further assistance if necessary. The suggested arrangement is the creation of a reminder system that schedules a telephone contact with victims and offenders within a month after a conference, and again within six months, or just prior to the completion of an agreement.

The Wagga program has also involved attendance, for some offenders, at a series of workshops held at the Police Citizens Youth Club. This aspect of the program

has not been evaluated. Subsequent evaluations in other jurisdictions should seek to compare the efficacy of follow-up programs offered by various agencies in the wake of conferences.

### **(3) General principles for preparation and coordination of a conference**

(More detailed information on conference preparation and coordination is contained in the *Conference Coordinators Manual*, which is reproduced as the second appendix to this report. A modified and more detailed version of the manual has been prepared since June 1993, when the version reproduced here was written. The authors of this original version nevertheless believe it to be essentially accurate.)<sup>3</sup>

- Great care should be taken in preparing a list of appropriate conference participants. Those eligible to attend are members of "the community of people affected by the incident". Thus, anyone with an ongoing emotional attachment to victim(s) or offender(s) may attend. Authority figures should not automatically be invited, nor should justice and welfare professionals - unless they have some personal (emotional) relationship with victim(s) or offender(s), and their presence is welcomed.
- Care should be taken to ensure that an adequate number of supporters for both the victim(s) and the offender(s) attend the conference. As a general rule, large numbers are to be encouraged. It should be borne in mind here that participants may play other roles in addition to those which constitute their primary reason for attending. Most notably, victims and their supporters will frequently support an offender who is under verbal attack from other participants.
- It should be remembered at all times that the conference is neither "offender-centred" nor "victim-centred". Rather, the focus is on the incident, and the goal is "to repair the damage and minimise further harm". However, when arranging a conference, first choice of time (and, where appropriate, venue) should be given to victims in order to emphasise that the conference is convened for their sake as much as for that of anyone else.
- Emotions play an essential role in the conference, and the fundamental emotional dynamics of the process must be well understood. The general principles are (1) that emotional expression should not be discouraged, (2) that negative emotions, once expressed, should gradually be minimised, (3) that positive emotions should gradually be maximised, and (4) that all of these principles should be maximised.<sup>4</sup>

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<sup>3</sup> This original version of the manual is also worth reproducing for the record, since it has been used to train coordinators in South Australia, New South Wales, the Australian Capital Territory and Queensland. Program evaluations in these jurisdictions will need to take into account the nature of advice contained in the manual.

<sup>4</sup> This formulation is closely modelled on Tomkins' description of universal human "general images". See S.S. Tomkins, *Affect/ Imagery/ Consciousness, vol. 1: The Positive Affects*, New York: Springer, 1962. p. 328. See also Vernon C. Kelly "Affect and Intimacy", *Psychiatric Annals* 23 (10), October 1993

- The "conditions of successful reintegration ceremonies" must be well understood.<sup>5</sup> In particular, the fundamental aim of separating the unacceptable act from the still acceptable perpetrator must be borne in mind at all times.
- Time should be allowed in the conference for full resolution of the issues, and for the preparation of an agreement which all participants find acceptable. The coordinator must not impose solutions on participants. Nevertheless, some reparative action by the offender(s) on behalf of the victim(s) should be encouraged for the sake of *both* parties and of their supporters.

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<sup>5</sup> As listed by John Braithwaite and Stephen Mugford in "Conditions of Successful Reintegration Ceremonies: Dealing with Young Offenders", *British Journal of Criminology*, 32 (2), 1994, p. 143