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Of course, one other group of Wagga residents have helped with the program evaluation - and their help has been invaluable. The conference participants whose voices are heard in this report generously agreed to the recording and transcribing of their conferences. A number of these people subsequently gave of their time to offer observations - critical and otherwise - about the conferencing program. To protect the confidentiality of these contributors, their names have been changed. Their (anonymous) assistance is greatly appreciated.

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In Melbourne, fruitful discussions have been had with the *Law Report's* Suzanna Lobez, with La Trobe University's Tom Fisher and Darren Palmer, and with writer, actor and old friend Humphrey Bower - whose insights on this issue have been as acute as his insights on everything else to which he turns his unusual mind.

In New Zealand, Michael Brown, Principal Youth Court Judge, maintains his interest in the export of a process that he was instrumental in having introduced into New Zealand's mainstream justice system. His eloquent support for responsible experimentation in the juvenile justice has encouraged reform in Australia. Gabrielle Maxwell, of the Office of the Commissioner for Children in Wellington, has offered interesting observations concerning differences between the various models which employ the conference process.

Thanks are also due to friends and colleagues overseas who have shown great interest in Australasian reforms, and who have offered insightful observations. In the United States, psychiatrists Donald Nathanson and Vick Kelly, both of the Philadelphia-based Tomkins Institute, have greatly enhanced our understanding of conference dynamics. Lawrence Sherman of the Crime Control Institute in Washington has helped to design the Canberra evaluation into which this evaluation will feed. John Kleinig and Maggie Smith of John Jay College's Center for Criminal Justice Ethics showed an early interest in the Wagga program, commissioned an apparently influential article on the subject for the journal *Criminal Justice Ethics*, and have offered useful observations. For hospitality and loquacity during a 1994 visit, thanks more generally to Roz and Don Nathanson, Bruce Shapiro of Tufts University, Ted and Susan Wachtel and their colleagues at the Community Services Foundation, Claire Renzetti at St Josephs University, Gates Rodes at the University of Pennsylvania, Lauren Abramson of Johns Hopkins University, and the Reverend Dave McShane.

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This may seem a long list of acknowledgments for an evaluation of one policing program in one town in southern New South Wales. But the Wagga model has attracted national and international attention. It has prompted sophisticated debates. And it has shown that there is a great deal of goodwill and energy available for constructive reforms in an area that is fast becoming the favourite topic for politicians in search of a policy. So thanks, finally, to all those politicians who have resisted the temptation to make political capital through the direction of official aggression at young people. Thanks especially to those politicians who are looking for constructive, responsible alternatives in the justice system. May the voters be with you.

D.B. Moore
Brisbane
January 1995

APPENDIX 1A – Selection of Conferences and interviewees

The conferences recorded, transcribed and reproduced in this report were selected entirely randomly - save for one factor: The coordinator in all of these conferences was Terry O'Connell. The decision to record only conferences convened by him was taken on several grounds. Of these, the most important were consistency of manner, practical experience, and a full awareness of the underlying theoretical issues. These were particularly important, since the formats of both the process and the model were still in the early stages of development.

The mode of selection was simple - Terry O'Connell was informed that David Moore would be in town for research purposes only after the review committee had taken its decisions on the week's conferences. Those conferences were convened *en bloc* during late afternoon and early evening. With the consent of participants, conferences were attended and recorded. The researcher was seated at the back of the conference room, which was at district police headquarters. Additional handwritten notes were taken discretely. These conferencing sessions were generally followed by a discussion session between coordinator and researcher (over dinner...).

As stated in the second chapter, the relative proportion of offence types dealt with here does not reflect the proportions in the larger sample, figures for which are provided in the fifth chapter. For example, police interventions (and conferences) for cannabis-related offences are far less frequent than is suggested by this (very) small sample (N=14). Similarly, Break, Enter & Steal offences led to less than one fifth of interventions in the larger sample, but nearly one third in the smaller sample. The relative proportion of property offences, other theft, and assault in the small sample is closer to the proportion in the larger sample. In one sense, however, differences in offence types, and in the number and background of participants, are less important than are the general similarities in outcome from one conference to the next.

The choice of participants to be interviewed was obviously not entirely random, although those interviewed had attended randomly selected conferences. It was considered important to interview at least one victim, one offender, and supporters from both a conference dealing with a property offence, and from a conference dealing with an offence against the person. It was also considered important to talk to professionals who regularly deal with young people, but who had attended a conference in a private capacity. The choice of the latter was easy: Interviews were requested with the first lawyer, social worker and teacher to attend one of the selected conferences.

For the choice of other interviewees, some rationale has already been presented in the third and fourth chapters. To have interviewed all participants in the selected conferences would have been a vast, punishing and unnecessary exercise. Instead, a list was made of people who fitted each of the relevant categories, such as "victim of a property offence", or "supporter of offender in an offence against the person". Interviews were then held with the first people available to be interviewed. All of them had something interesting to say. Their suggestions have been taken into account in the further refinement of the process and model.

APPENDIX 1B - Eligibility Criteria for FGC

The legal eligibility criteria for FGC in the Wagga Wagga program was, that any matter which was eligible for a police caution was also eligible for a FGC. Matters which were summary matters or indictable matters that can be dealt with under Sections 476, 495 and 496 of the Crimes Act 1900 were eligible for a FGC.

Police in Wagga Wagga also considered the following issues when deciding which cases were eligible for FGC:

1. The nature, type and seriousness of the offence/s.
2. The number and age of offenders involved.
3. The prior history of the offender/s.
4. The number of victims.
5. Any compensation/reparation sought.
6. The recommendation of the investigating officer.

(This information was supplied by the Principal Adviser Youth and Juvenile Justice, NSW Police Service)

APPENDIX 1C - Data Tables

Appendix Table 1C- 1									
Age by Time Period (Frequency) - Cases									
Juveniles Apprehended Wagga Wagga Patrol Jan 90 to Oct 93									
Age	Time Period								Total
	Jan- Jun 90	Jul- Dec 90	Jan- Jul 91	Aug- Dec91	Jan - Jun 92	Jul - Dec 92	Jan - Jun 93	Jul- Oct 93	
10		4	3	1	1	4	2	1	16
11	1	1	4	1	3	4	3	3	20
12	3	4	5	8	12	8	10	6	56
13	12	9	18	12	11	12	15	12	101
14	19	25	28	21	19	17	20	8	157
15	41	25	39	19	20	31	29	15	219
16	45	48	38	25	28	20	31	32	267
17	50	39	43	24	24	34	42	27	283
18&over	1		1		2	1		1	6
Total	172	155	179	111	120	131	152	105	1125

Missing Cases=40

Appendix Table 1C- 2								
Age by Time Period (Percentages) - Cases								
Juveniles Apprehended Wagga Wagga Patrol Jan 90 to Oct 93								
Age	Time Period							
	Jan- Jun 90	Jul- Dec 90	Jan- Jul 91	Aug- Dec91	Jan - Jun 92	Jul - Dec 92	Jan - Jun 93	Jul- Oct 93
10		2.6	1.7	0.9	0.8	3.1	1.3	1.0
11	0.6	0.6	2.2	0.9	2.5	3.1	2.0	2.9
12	1.7	2.6	2.8	7.2	10.0	6.1	6.6	5.7
13	7.0	5.8	10.1	10.8	9.2	9.2	9.9	11.4
14	11.0	16.1	15.6	18.9	15.8	13.0	13.2	7.6
15	23.8	16.1	21.8	17.1	16.7	23.7	19.1	14.3
16	26.2	31.0	21.2	22.5	23.3	15.3	20.4	30.5
17	29.1	25.2	24.0	21.6	20.0	26.0	27.6	25.7
18&over	0.6	0	0.6	0	1.7	0.8	0.0	1.0
Total	100.00	100.00	100.00	99.9	100.00	100.3	100.1	100.1

Missing Cases=40

Appendix Table 1C- 3	
Number of Months Between 1st & 2nd Apprehension	
Months	Frequency
1	49
2	18
3	18
4	7
5	15
6	9
7	5
8	9
9	11
10	3
11	10
12	3
13	3
14	6
15	3
16	2
17	1
18	1
19	4
20	2
21	0
22	0
23	0
24	2
25+	8

Appendix Table 1C- 4	
Proportion Who have Subsequent Apprehension Wagga Wagga Patrol Jan 90 - Oct 93	
Arrest No:	Percentage
1	23.9%
2	51.3%
3	56.7%
4	69.1%
5	71.1%
6	55.5%
>6	86.4%

Appendix Table 1C- 5			
Percent Reapprehended* - Individuals			
Time Period by Manner Proceeded With			
Time Period	Caution	Court	Total
1	37.2%	39.6%	38.8%
2	20.0%	41.7%	29.9%
3	34.7%	29.7%	33.0%
4	35.7%	42.9%	38.6%
5	27.8%	57.1%	33.8%
6	16.9%	45.5%	21.4%
7	15.1%	46.2%	21.2%
8	3.1%	14.8%	8.5%

*Expressed as a proportion of all individuals dealt with in that particular manner. For example: During the first time period 37.2% of individual juveniles who were cautioned were reapprehended by police in Wagga Wagga during the study period (January 1990 to October 1993). An individual in this analysis is defined as such the first time he/she appears in this data set.

Appendix Table 1C- 6			
Number Reapprehended* - Individuals			
Time Period by Manner Proceeded With			
Time Period	Caution	Court	Total
1	16/43	38/96	54/139
2	12/59	20/48	32/107
3	26/75	11/37	37/112
4	15/42	12/28	27/70
5	15/54	8/14	23/68
6	10/59	5/11	15/70
7	8/53	6/13	14/66
8	1/32	4/27	5/59

Missing cases=2

*The number reapprehended is shown on the left of the slash (/) and the total number of juveniles dealt with in that manner is shown on the right, ie: during the first time period sixteen out of the forty-three juveniles who were cautioned were reapprehended. These are the raw numbers used to calculate the percentages in Table 23.

Appendix Table 1C- 7
Number Reapprehended Within 9
Months* - Individuals
Time Period by Manner Proceeded With

Time Period	Caution	Court	Total
1	6/33	29/87	35/120
2	7/54	15/43	22/97
3	16/65	10/36	26/101
4	12/39	11/27	23/66
5	14/53	7/13	21/66
6	9/58	4/10	13/68
7	8/53	6/13	14/66
8	1/32	4/27	5/59

Missing cases=2

*The number reapprehended is shown on the left of the slash (/) and the total number of juveniles dealt with in that manner is shown on the right, ie: during the first time period six out of the thirty-three juveniles who were cautioned were reapprehended. These are the raw numbers used to calculate the percentages in Table 25.

APPENDIX 1D - Sample Data Tables

Appendix Table 1D- 1		
Age - Individuals		
Sample		
Age In Years	Freq	Percent
10	2	0.9%
11	10	4.3%
12	13	5.5%
13	18	7.7%
14	35	14.9%
15	46	19.6%
16	47	20.0%
17	64	27.2%
Total	235	100.1%

Missing cases=1

Appendix Table 1D- 2		
Sex Distribution – Individuals		
Sample		
Sex	Frequency	Percentage
Male	186	78.8%
Female	50	21.2%
Total	236	100.0%

Appendix Table 1D- 3		
Racial Appearance - Individuals		
Sample		
Racial Appearance	Frequency	Percentage
White	200	88.9%
Aboriginal	20	8.9%
Pacific Islander	1	0.4%
East Asian	2	0.9%
Indian	1	0.4%
Middle East	1	0.4%
Mediterranean	0	0%
Other	0	0%
Total	225	99.9%

Missing = 11

Appendix Table 1D- 4		
Occupation – Individuals		
Sample		
Occupation	Frequency	Percentage
RAAF Apprentice	2	0.9%
Trade Apprentice	8	3.4%
Farm Worker	2	0.9%
Retail & Service	2	0.9%
Catering	3	1.3%
Labourer	3	1.3%
Other	2	0.9%
Unemployed	76	32.6%
Student	135	57.9%
Total	233	100.1%

Missing cases = 3

Appendix Table 1D- 5		
First Offence Cases		
Sample		
Offences	Frequency	Percentage
Assault	32	10.5%
Sexual Off	5	1.6%
Robbery	4	1.3%
BES & Unlaw Entry	40	13.1%
Fraud & Misap	2	0.7%
StolenGoods	10	3.3%
MVT	19	6.2%
Other Theft	118	38.6%
Property Dam	24	7.8%
Off Ag Just Proc	11	3.6%
Weapon/Firearm	0	0%
Oth Good Order Off	23	7.5%
Possess Cannabis	11	3.6%
Supply Cannabis	1	0.3%
Grow Cannabis	1	0.3%
Drink Drive	3	1.0%
Other Driving	2	0.7%
Telecom	0	0%
Total	306	100.1%

Appendix Table 1D- 6			
Number of Apprehensions			
Sample - Individuals			
No: Arrests	Frequency	Percentage	Cum Perc
1	174	73.7%	73.7%
2	30	12.7%	86.4%
3	17	7.2%	93.6%
4	8	3.4%	97.0%
5	5	2.1%	99.1%
6	1	0.4%	99.5%
9	1	0.4%	99.9%
Total	236	99.9%	

Appendix Table 1D- 7		
Percentage Reapprehended* Within 9 months -		
Sample - Individuals		
Before / After FGC by Manner Proceeded With		
	Before	After
Caution	33.3%	23.7%
Court	39.1%	41.7%

*Expressed as a proportion of all individuals dealt with in that particular manner. For example: In the 'Before FGC' group 33.3% of individual juveniles who were cautioned were reapprehended by police within 9 months. An individual in this analysis is defined as such the first time he/she appears in this data set.

Appendix Table 1D- 8		
Number Reapprehended* Within 9 months		
Sample - Individuals		
Before / After FGC by Manner Proceeded With		
	Before	After
Caution	20/60	18/76
Court	25/64	15/36

*These are the raw numbers used to calculate the percentages Appendix Table 1D-7. The number reapprehended is shown on the left of the slash (/) and the total number of juveniles proceeded with in that manner is shown on the right, ie: in the 'before FGC' group twenty out of the sixty juveniles who were cautioned were not reapprehended.

APPENDIX 1E - List of ANCO Offence Codes Used

Code No:	Code Name	Description
12	Assault	
13	Sexual Offences	
21	Robbery	
31	Break, Enter & Steal, Unlawful Entry	
32	Fraud & Misappropriation	Mostly cheque offences
33	Stolen Goods	
35	Theft or Illegal Use Motor Vehicle	All illegal use offences
39	Other Theft	Includes Shoplifting
41	Property Damage	
52-54	Offences Against Justice Procedures	Includes hinder & resist police
55	Weapons/Firearm	
59	Other Good Order Offences	Includes liquor licence, offensive conduct, offensive language, trespass.
61	Possess/Use Drugs*	Cannabis offences only
65	Dealing/Supplying Drugs*	Cannabis offences only
66	Grow/Manufacture Drugs*	Cannabis offences only
69	Other Drug Offences	Possess drug implements
71	Drink Drive	
74	Other Driving Offences	Includes categories 72 reckless or (driving licence offences) as they were not distinguished during the recording of the data.
83-88	'Other Federal, State and Territory Legislation'	This code covers many areas, however, as appearing in this data set telegraphs and will be the only one is 'Posts, telecommunications' it referred to as simply 'telecommunications' or 'telecom'in the tables

*These categories relate to all drugs in the ANCO code, however, as the drug offences in this data set exclusively involved cannabis this was added to the offence category name to be more descriptive.

CHAPTER 1: ORIGINS AND IMPLEMENTATION

Several broad processes of reform appear to have influenced the development of the Wagga model of juvenile justice. Three of these seem particularly significant. None are specific to Australasia. The first is reform of the philosophy and practice of juvenile justice. The second is a reform of philosophies and practices of criminal justice systems in general. The third is reform of the structure and mandate of police agencies. The development of the Wagga model can be interpreted as a confluence of these three processes of reform.

(1) The first broad process of reform to have influenced the development of the Wagga model is the reform process within juvenile justice systems. Theory and practice in these systems have long been influenced by tension between two competing models. One is the legal formalist or just deserts model. It responds to illegal actions with punitive official reactions. The alternative to this is the welfare model. It aims to provide additional social support for young perpetrators of illegal actions. Modern systems of juvenile justice emerged when the welfare model was offered as an alternative to legal formalism in the late nineteenth century. The notion that the criminal justice system should mete out just deserts to young offenders was challenged by the notion that young people who committed illegal acts deserved additional support rather than carefully calibrated punishment. The provision of therapeutic support was seen as a more humane and more effective response than was retribution.¹

Public policy in juvenile justice has oscillated between these two positions ever since. Departments, statutory bodies, independent pressure groups and moral entrepreneurs have all urged either leniency or toughness. All have been backed by some sort of theory. The welfarist position is frequently informed by a simplistic sociological conception of individual enculturation, the legal formalist position by an equally simplistic psychology of human motivation. One result of this polarisation has been an inherent instability in the formal arrangements of juvenile justice systems. The temptation for populist political interference is considerable. A change in the general political climate prompts a shift towards welfarism or back towards legal formalism. Another political change prompts another shift, and so on.

A favoured administrative response to this problem has been to separate the roles of punishing and supporting young offenders. Rather than having to choose, every decade or so, between greater retribution or greater efforts at rehabilitation, state agencies have pushed for legislation providing both responses. Separate agencies or divisions administer punishment or therapeutic support within the one big system. Expansion of that system has removed some of its instability. Systemic expansion has been the preferred response of people working within existing agencies.

There has, however, been an alternative response to the question of whether the state should be concentrating on retribution or rehabilitation. The alternative response has been that the state should be providing as little as possible of either. Over the last two decades, much credence has been given to the notion that young people should have as

¹ J. Seymour *Dealing with Young Offenders*, Sydney: Law Book Company, 1988 remains the most impressive study of these issues as they apply to Australia.

little contact as possible with the juvenile justice system. This position has frequently been supported by what criminologists call "labelling theory", a widely accepted formulation of which was provided by Howard Becker in the early 1960s. Becker argued that:

deviance is not a quality of the act a person commits, but rather a consequence of the application by others of rules and sanctions to an "offender". The deviant is one to whom the label has successfully been applied; deviant behaviour is behaviour that people so label.²

According to the theory, the act of labelling a person as deviant becomes a self-fulfilling prophecy. Once labelled, a person will tend to behave accordingly. And contact with the juvenile justice system is said to burden young people with just such a label. Now the evidence for this claim is mixed, and labelling theory has been criticised on various grounds. It has been suggested that labelling theory is more an attitude or a perspective than a theory; that it fails to explain the psychological processes by which the burden of a label produces corresponding behaviour; that it ignores existing temperamental predispositions; that it underplays resistance to labelling; that it focuses only on reactions to negative labels, ignoring reactions to positive labels.

Despite its empirical and logical weaknesses, however, labelling theory has shown a great deal of cultural strength. Among many policy makers and practitioners, it is now received wisdom that contact with the system labels a person, that labelling produces stigma, that stigma lowers self-esteem, and that this lowered self-esteem prompts anti-social behaviour.

A major ramification of this received wisdom is that any program offering "diversion" from the system is assumed to be worthy, because diversion will help to avoid labelling and stigma. General assumptions about the value of diversion have encouraged the development of more efficient filtering systems, whereby first and second-time offenders are diverted, and only multiple offenders are admitted to the system. The question then is what happens to multiple offenders once they are admitted. While belief in the general value of diversion has grown, faith in the possibility of rehabilitation in an institutional environment has diminished.³ In the apparent absence of a third alternative, there have been calls from some quarters to move away from the rehabilitative ideal and move back to a retributive model of criminal justice for those who are admitted to the system.

The various voices calling for a return to retribution have differing motives, but it is important to understand the sentiment with which they are engaging. That sentiment is, above all, the righteous anger of victims and of potential victims - those made fearful by reports of crime. And the power of this righteous anger has too frequently been overlooked. It has generally been overlooked by proponents of the welfarist model of juvenile justice. It has also been overlooked by proponents of the model that prefers diversion to either just deserts or welfare. But anyone concerned with the politics of criminal justice in general cannot afford to ignore a sentiment so powerful as

² H.S. Becker *Outsiders: Studies in the Sociology of Deviance*, New York: The Free Press, 1963, p.9

³ As suggested by the memorable title of Francis A. Allen's *The Decline of the Rehabilitative Ideal*, New Haven, Yale UP, 1981

righteous anger. The victims' movement is powered by righteous anger, and the emergence of this movement has made it near impossible for politicians to ignore the problematic role of victims in current criminal justice practices. The demand for a better deal for victims was certainly a second influence on the development of the Wagga model. Diversion alone could no longer be considered an adequate response to problems of the justice system.

(2) A second major influence on the development of the Wagga model, then, has been the search for philosophies and practices of criminal justice that take account of the needs of victims of crime. "Victimology" and the victims' movement have emerged in the industrialised democracies since the early 1970s. Their emergence has been attributed to the confluence of several other, broader social movements, including those demanding equal opportunities for women, tougher responses to crime, and respect for civil rights.⁴

During the same period, many of those who retained some faith in the rehabilitative ideal began to look for alternative methods by which to achieve rehabilitation. Under the influence of the victims' movement, broader questions began to be asked about the parties affected by crime, the desired outcomes from the criminal justice system, and the most appropriate processes by which to achieve those desired outcomes.⁵

One important result of deliberation about the criminal justice system has been the emergence of the paradigm of "restorative" justice. Within this paradigm: crime is viewed as a social phenomenon that is best addressed through social processes; individuals must take responsibility for their behaviour, but so too must the communities to which they belong; the primary role of the state here is to safeguard just processes; the goal of such processes is not retribution by the state but restoration through social reintegration of victims and offenders; recourse to the formal court system should be kept to a minimum; the development of local processes for achieving restorative justice should be encouraged; ideally, not only victims and offenders but also members of their respective communities should be involved in these processes.⁶

The most significant attempts to put this theoretical paradigm of restorative justice into practice have been various victim-offender reconciliation or mediation programs. Some of these have been reasonably successful, but most have also met with significant procedural difficulties.⁷ The reasons for these difficulties are clear. Mainstream criminal justice systems continue to focus on the offender, continue to assume that retribution has some inherent value, and continue to operate on the assumption that state officials must impose retributive penalties. Accordingly, where referrals are made to some restorative process from within the mainstream criminal justice system, those administering the restorative process have to choose between two positions. First, they may increase the likelihood of referrals from that mainstream system by allowing their

⁴ A. Karmen *Crime Victims: An introduction to victimology*, Belmont, CA: Brooks/Cole 1984

⁵ D.W. Van Ness "Restorative Justice" in B. Galaway & J. Hudson *Criminal Justice: Restitution & Reconciliation*, Monsey, NY: Willow Tree Press, 1990

⁶ T.F. Marshall "Grassroots Initiatives towards Restorative Justice: The new paradigm", Paper presented to Fullbright Colloquium, University of Stirling, 1-4 September 1992

⁷ See Galaway & Hudson, *op. cit.* and H. Messmer & H-U. Otto (eds) *Restorative Justice on Trial*, Dordrecht: Kluwer Academic, 1992

restorative process to be corroded by retributive values. Alternatively, they may pay the price of faithfulness to the restorative ideal but receive very few referrals.

A compromise between these two positions has meant that restorative justice programs have, in practice, been both somewhat corroded and somewhat marginalised during the last two decades. Programs have tended to operate on a small scale, and have frequently failed to escape the traditional paradigm according to which officialdom focuses on some form of punishment for the individual offender. There are three possible responses to this combined problem of marginalisation and corrosion of values. One is to presume that there is something intrinsically wrong with the theory of restorative justice. The second is to presume that there is something wrong with the way in which restorative principles have been put into practice. The third is to presume that both theory and practice need improving.

This report does not take issue with the central theoretical principals of restorative justice, which will be discussed further in the sixth chapter of this report. The report is concerned, however, to with the existing gaps between theory and practice in restorative justice. Accordingly, the key practical problem faced by restorative justice programs to date will be discussed here. This practical - or procedural - problem is how a significant number of cases may be referred from a retributive justice system to a restorative process without the principles of that restorative process being corroded. The most obvious solution to this problem is to avoid referral to the retributive system in the first place. Cases may be diverted at the point of entry to the criminal justice system. Rather than simply being diverted away from retribution and/or official therapy, however, they can be diverted towards a restorative process.

If the relevant officials are to divert cases from the criminal justice system, however, they must feel confident about several issues. First, they must feel that the arguments supporting diversion are at least partly valid. Second, they must feel that the principles supporting the involvement of victims in restorative processes are at least partly valid. This is not too tall an order. Both diversion and victim involvement in restoration are now sufficiently developed as clusters of theory and practice as to be generally acceptable. But if the relevant officials are to divert significant numbers of people towards a restorative process, and not simply away from the present system, they must also feel confident about a third issue. They must feel confident about exercising their discretion to encourage community participation in issues of justice. And if they are to encourage greater community participation, officials must first have given a good deal of thought to the ultimate goals of their intervention.

The developers of the Wagga model had reassessed the goals of their intervention, and were prepared to try a fundamentally different approach. But the impetus for reform in the city of Wagga Wagga cannot be explained solely by reference to those processes of reform in juvenile justice that had made diversion a valid goal. Nor can the willingness to experiment with a new approach be explained solely by reference to those reformist trends in criminal justice that had encouraged greater concern for the needs of victims, and greater concern for restoration rather than retribution. To explain the willingness of local police to involve in a restorative process all of those affected by a crime, one must also consider a third set of reforms - reforms to contemporary policing.

(3) A third major reform process to influence the development of the Wagga model, then, has been the cluster of reforms collectively called "community policing". This community policing movement can be seen as just one manifestation of a more general pressure on political and economic systems for greater openness to public scrutiny and for increased participation in decision-making. And the New South Wales Police Service was only one of many police agencies to be influenced by the community policing movement during the 1980s. Nevertheless, as is often the case in policing, the reform process in the New South Wales Police Service was initiated by adverse publicity followed by a public inquiry.

Guided by a new and unusually impressive Commissioner, the New South Wales Police Service underwent a major reform during the second half of the 1980s. The philosophy of "Community Based Policing" was adopted as the official guiding philosophy of the Service in 1987. The state was divided into four administrative regions, each region divided into around half-a-dozen districts, each district divided into patrols, and each patrol into sectors. At least in theory, and where appropriate, responsibility within the organisation was devolved to lower levels. A considerable degree of autonomy to experiment with new programs was given to district and patrol commanders. Greater consultation between police and public was encouraged.⁸

One practical consequence of the adoption of community policing as a guiding philosophy was the introduction of beat policing, the basic idea of which is that individual officers are assigned responsibility for specific localities or beats. They are encouraged to work towards a safer community with the people who live or work in those beats. Beat policing programs were introduced in several Sydney metropolitan patrols in 1988. The patrol commander for the city of Wagga Wagga, Chief Inspector Kevin Wales, oversaw the introduction of a similar program in his patrol in 1990. Ultimately, it was this initiative that led to the development of the Wagga model of juvenile justice. The way in which this occurred is an important case study in the translation of philosophy into practice. Several factors are of particular significance here.

First, the impetus to establish a beat policing program in Wagga Wagga came as much from outside the police service as from within. A (civilian) Community Consultative Committee for Wagga Wagga had been established in 1987 after a public meeting. The chair of that committee, Marie Thompson, has taken an active and constructive role in promoting links between local police and other members of the Wagga community. Her committee suggested adapting the practice of beat policing to local conditions. So beat policing in Wagga Wagga was a genuine community initiative.

Second, the officer who was given the task of establishing beat policing in Wagga Wagga was well placed to succeed. Senior Sergeant Terry O'Connell brought academic and industrial perspectives to the task. He was completing a Bachelor's degree in social welfare when he took it on. He was also Deputy President of the New South Wales Police Association. Given this background, he was familiar with the major theoretical issues informing service delivery in policing, familiar with comparable

⁸ See D.B. Moore "Criminal Justice and Conservative Government in New South Wales (1988-1992): The significance of police reform", *Police Studies*, 15 (2) 1992: 41-54

issues in education and welfare, and aware of the industrial ramifications - negative and positive - of any major change in police procedures.

Third, the introduction of the beat policing program increased the degree of consultation and cooperation between local agencies - particularly that between schools and police. The Police Citizens Youth Club played a major role in a series of programs that strengthened these links. Crime prevention workshops offered by police in schools appear to have had as significant an effect on police officers as they have on school students. The effect of these workshops and related programs is summarised in a 1992 letter from the head of the beat police to the Education Department's local Home School Liaison Officer:

The need for an Alternative Program for Adolescent School Refusers is well recognised. With the inception of Beat Police within Wagga Wagga in November 1990, the historically difficult area of juvenile crime was given a high priority. For the first time, Police were able to begin to appreciate the complexity of the problem and recognised that our past approach mainly centred upon the symptoms and not the underlying causes of the problem.⁹

As this excerpt suggests, the groundwork for a significant reform to police relations with young people had been laid. An historical perspective suggests that it had been laid at two levels. At a general cultural level, the groundwork for reform consisted of three prevailing modern ideas about social regulation. One was that young people ought to be diverted, where possible, from the formal juvenile justice system. A second prevailing idea was that victims and others affected by crime ought to be more involved in the response to crime, and that that response ought to be informed by restorative principles. A third idea was that government agencies, including police, should be more responsive to the needs of local communities. The specific manifestation of this idea in policing has been the community policing movement.

At the local level the groundwork for reform was laid by the philosophy of community policing. That philosophy encouraged the development of a Community Consultative Committee in Wagga Wagga. The committee called for the introduction of beat policing which, in turn, encouraged much greater consultation and cooperation between police and other agencies in the city. Greater cooperation between schools and police, in particular, prompted a reassessment of the role of police in dealing with young people. In this way, developments at the local level prepared the ground for the development of a new model of juvenile justice which would combine principles of diversion with principles of victim-offender reconciliation. Given the importance of these local initiatives in this sequence of events, it is ironic that the final impetus to develop the Wagga model came from head office, while the model's central process was imported from overseas.

The final impetus to develop the model was an expression of concern from the office of the regional commander. The ratio of cautioning to court appearances for young people apprehended by police in the Wagga patrol was considered to be too low. As the Wagga Patrol Commander put it, the staff officer in the regional office:

⁹ Terry O'Connell to Phil Gooley, 17 July 1992

was one of the fellows that said to me, "You understand, Mr Wales, that only eighteen percent of your juveniles are getting the benefit of a caution?". And that alarmed me, because I didn't believe that that should be so. And I did something about it - with Terry O'Connell and his system.

The staff officer had miscalculated slightly. The rate of cautioning as against court was a little higher - twenty-three percent, not eighteen. But that was still a very low rate. Changing this situation was not quite as straightforward as the Patrol Commander suggests. In order to increase the rate of diversion in Wagga Wagga, the head of the beat police first had to ascertain why police in the patrol were loathe to divert young people from court. If this was because police considered the current cautioning process inadequate, some alternative process would have to be devised or imported. As it happened, the alternative process was imported rather than devised. It was imported from New Zealand, via police headquarters in Sydney - and not by a sworn officer.

During October 1990, the first of several Australian missions to study the impact of New Zealand's *Children, Young Persons and their Families Act, 1989* had been undertaken. John McDonald, adviser on juvenile justice to the New South Wales Police Service, had travelled to New Zealand with an officer from the Police Service, a member of the Police Minister's staff, and the head of the state's Public Interest Advocacy Centre. Impressed by what he saw, McDonald co-authored a paper entitled *Can It Be Done Another Way?*. It suggested alterations to the state's juvenile justice system. In particular, it suggested that the Family Group Conference process could be used by police for dealing with a large proportion of cases involving young offenders. The Police State Executive Group - the Commissioner and Assistant Commissioners - endorsed the proposals of the report when it was completed in November 1990.

The report was subsequently circulated widely to relevant agencies and individuals. It first reached Terry O'Connell in his capacity as Deputy President of the New South Wales Police Association. The idea was that the Association might consider the ramifications of the report's proposals. It was in his capacity as head of the Wagga Wagga beat police, however, that O'Connell saw a more immediate application for the family group conference process. Accordingly, he invited John McDonald to Wagga Wagga in July 1991 to meet with police and with members of the Community Consultative Committee. McDonald also met with a group of academics and legal and welfare professionals during his visit. Several of the academics saw the potential of the proposed scheme to translate social theory into practice. In particular, they noted similarities between the principles of family group conferences, and principles outlined in a recently published book, *Crime, Shame and Reintegration*.

In that book, Professor John Braithwaite of the Australian National University had argued that there could be more constructive processes for responding to crime than those currently employed by modern formal systems of justice. He was critical of processes designed primarily to stigmatise offenders, suggesting that such processes were premised on a flawed explanation for why people do or don't commit crime. Braithwaite argued, instead, for processes designed to reintegrate both victims and offenders back into the community in the wake of a crime. The family group conference, originally developed by Maori people, was a fine example of such a

process. From the academic perspective, the proposals had an additional attraction. A model of juvenile justice built around family group conferences presented an unusually good opportunity for an interplay between sophisticated theory and innovative practice. One could be tested against the other.

Members of the Community Consultative Committee and some police also expressed interest in McDonald's proposal. They saw the potential for a program which increased the rate of diversion from the official system, which also addressed victim's needs, and which was in harmony with some key principles of community policing. A sub-committee of the Community Consultative Committee agreed to compare Family Group Conferences and Community Aid Panels with the current offerings of the juvenile justice system. Marie Thompson and Terry O'Connell travelled to New Zealand to study changes in juvenile justice there since the introduction of the 1989 legislation. Both returned convinced that the development of a model using family group conferences could greatly improve the official response to crime in their city.

But they faced a political obstacle in Sydney. Another process, known as the community aid panel, was being proposed as a solution to problems of juvenile justice in New South Wales. Then Premier Greiner had apparently been convinced of the value of community aid panels by a central coast magistrate who had been involved with a panel in his district. The principles of the panel were simple enough. A community aid panel aimed to divert young offenders from the formal court system. It offered a caution, much like the traditional Sergeant's caution, and sometimes also imposed conditions or tariffs such as community service. Unlike the traditional Sergeant's caution, the panels involved professionals from several agencies. The underlying dynamic was essentially the same, however. State officials focussed on the failures or needs of an individual offender. Addressing those failures or needs, it was hoped, would reduce the likelihood of reoffending. Certainly, the Premier was convinced.

Local practitioners, however, were sceptical. On the basis of what they had seen in New Zealand, both Marie Thompson and Terry O'Connell considered that family group conferences were superior to community aid panels in several respects. Family group conferences focused on the incident rather than the offender. They involved the victim. They involved other people affected by the incident. They were potentially less bureaucratically complicated than panels. Participants, rather than officials, could decide on a tariff if they felt the imposition of a tariff was necessary. Compliance with agreements would be more likely if participants themselves designed and agreed on the conditions of agreements, rather than having them imposed. Police would also be more likely to refer cases to a process that addressed the needs of victims and other people affected, rather than just addressing the needs of offenders and officials. And there were also good theoretical reasons why a well-coordinated program of family group conferences should reduce the total rate of reoffending. The family group conference was a process, then, that seemed primarily designed to meet the needs of local communities rather than the needs of public officials.

After consultation with her fellow committee members, Marie Thompson wrote to the newly appointed Police Commissioner Tony Lauer, informing him that the Community Consultative Committee had approved the development in Wagga Wagga of a juvenile

justice model using family group conferences. This put the Commissioner in a quandary. He was faced with members of a police patrol and a Community Consultative Committee who had done exactly what his recently retired predecessor John Avery had long advocated. They had convened, consulted and researched, and had now produced a constructive proposal, which they hoped to implement in their city. Unfortunately, Police Minister Pickering had already followed his Premier's lead on the issue of juvenile justice reform. Community aid panels were to be the centrepiece of the state government's reforms to juvenile justice. Family group conferences apparently conflicted with that vision. As relations between the newly appointed Commissioner and the Police Minister were already tenuous, the issue was not taken further in Sydney. Chief Inspector Wales received a memorandum advising that police in the Wagga Wagga patrol were to have nothing to do with family group conferences.

Kevin Wales was now in a quandary. The realities of state government decision-making processes were in direct conflict with the rhetoric of community policing. Wales had asked his beat police to improve their system for dealing with cases involving young offenders. His officers and the Community Consultative Committee had designed an apparently workable system for his patrol. Now they were being told that community aid panels were politically popular in Sydney, and were thus the only option available to the citizens of Wagga Wagga if they were not satisfied with the current system of cautions, courts, and detention.

Thompson and other members of the Community Consultative Committee took their case to the local media. This local pressure helped the Patrol Commander to take a principled stance and resist the pressure from Sydney. He allowed the beat police to proceed with their plans. Terry O'Connell found an entirely legitimate means by which family group conferences could be convened under existing conventions, legislation and administrative guidelines. Conferences could be convened in much the same way as traditional police cautions. The Commissioner's instructions on cautions made limited use of the discretion of police guaranteed under common law. Following an initial investigation, and where guilt is admitted, police have the discretion to administer an official caution rather than refer a matter to court. The idea now was that, rather than asking the offender and their parents or guardians to be talked at by a sergeant, police might instead invite all of the people affected by an incident to resolve the issue themselves. Terry O'Connell was now faced with a question of social psychology: Under what circumstances would his colleagues refer a greater proportion of cases to a cautioning program?

To answer this question, O'Connell surveyed around fifty of his colleagues. The survey revealed unanimous dissatisfaction with the current juvenile justice system. All of the respondents thought that young offenders were not being made to take responsibility for their actions, that current responses to juvenile offending largely ignored victims, that families of young offenders frequently showed no apparent interest in their child(ren), that young offenders were contemptuous of police, and that the whole community suffered from the effects of juvenile offending.

Despite this deep dissatisfaction with the current system, the proposed introduction of family group conferences was greeted with caution and scepticism. Local police

nevertheless agreed to a trial of the proposed scheme once O'Connell, who was familiar with industrial negotiations, had asked them to consider a series of propositions. His colleagues agreed: that police are the key players in the initial intervention for a transgression of the law; that the nature of an initial intervention will strongly influence whatever process follows; that the decision to caution or to send a young alleged offender to court is generally decided by the nature of this initial intervention; that victims and police are generally unimpressed with the outcome of court cases for young alleged offenders. Accordingly, police would support any means by which the impact of a police caution could be increased without violating the rights of the young person concerned. They would also support any process that involved victims without violating their rights. They agreed that such a process might produce a better outcome for young offenders and their families. The process might, therefore, also represent a better outcome for police.¹⁰

The officers surveyed accepted that a new system of juvenile cautioning should be introduced, and that it would be based on the family group conference process developed in New Zealand. The aim of the new system would be to "maximise the impact of juvenile cautioning". The new system would thus be called an "effective cautioning scheme". No new legislation would be required, nor any new guidelines, other than at the local level.

Terry O'Connell was then faced with task of designing a format for these "effective cautions". They would be closely modelled on the New Zealand family group conferences, but would be simpler. The design of family group conferences in Wagga Wagga was also influenced by the format of crime prevention workshops in schools. Instead of asking workshop participants to assume the perspective of people involved in a hypothetical incident, the conference coordinator would be asking people involved in a real incident how that incident had affected them.

In August 1991, O'Connell convened his first family group conference in Wagga. He invited the victim of a motorcycle theft to the seminar room at district headquarters in order to discuss the matter with the offenders and their families. The victim took some persuading, but eventually attended the police station. He was furious about damage to his bike and the effrontery of those who had taken it in the first place. He was seeking retribution. An hour later, he and the offenders left unscathed. They had arranged for the repairs, and were discussing their mutual interest in bikes. This was an easy case.

When local high school students caused several thousand dollars worth of damage to a car-wash business during their end of school celebrations in October, however, matters looked a little more complicated. Following initial investigations and straightforward admissions of guilt, two meetings were convened. The first occurred at the high school, and led to the election of a group to represent all of the students involved in the incident. The second meeting was held at the car-wash, and was attended by students, families, teachers, the owner of the business and an employees. Agreements for compensation - partly monetary, partly involving unpaid work - were easily

¹⁰ A more detailed description of these negotiations is provided in D.B. Moore & T.A. O'Connell "Family conferencing in Wagga Wagga", in C. Alder & J. Wundersitz, *Family Conferencing and Juvenile Justice: The way forward or misplaced optimism?*, Canberra: AIC, 1994

reached. The parties to the agreement were even more impressed by the process itself than by that positive outcome. The incident and its aftermath received publicity not only in the local media, but also in Sydney.¹¹ The credibility gap was crossed at this point. Sceptical local police conceded that the "effective cautioning scheme" was capable of producing constructive outcomes.

By March of 1992, the new model was up and running. Terry O'Connell and the two other sergeants from the beat police were coordinating conferences. The objectives of the model were formalised in that month. The "effective cautioning using family group conferences" had seven formal objectives: These were: (1) to insure that the young offender understands the seriousness of his/her offence; (2) to minimise the opportunity of the young person re-offending; (3) to provide the young offender with an opportunity to accept responsibility for his/her offence; (4) to ensure that family and significant others are made accountable; (5) to provide the victim(s) with some input into the cautioning process; (6) to improve the opportunity for victim restitution or compensation; (7) to provide police with an opportunity to contribute in a significant and satisfying way to the processing of young offenders.¹²

In order to ensure that these objectives were sought collectively, the beat police established a review committee or "adjudication panel" to review each juvenile justice case that came before them. At the end of each week, a committee of senior sergeants would meet and consider all summary matters for which the preliminary investigation had been completed. Where guilt had been admitted, the review committee could opt to divert the case from court. But rather than just diverting cases to the traditional Sergeant's caution, they now had the option of diversion to a family group conference. So the Wagga model involved a dual procedural change. First, the introduction of family conferencing was a significant procedural change within the cautioning process. Second, the establishment of the review committee was a significant change at the gateway to the formal system. It was a significant change to the way in which the decision to send a case to court or caution was made. The effect of this dual procedural change was dramatic.

In the year 1989/90, 23% of young people apprehended by police had been dealt with by way of caution. This had risen during the following year, 1990/1991, to 44%. Furthermore, the number of total police interventions involving young people fell from 425 to 355. There are several factors that may have contributed to the increase in the rate of cautioning and the reduction in the total number of police interventions before the introduction of family group conferencing. The most significant would appear to be the influence of beat policing and of greater involvement in schools on police attitudes towards young people. Increased interaction between police and young people on a constructive basis appears to have affected the way in which police dealt with that minority of young people who are apprehended for transgression of the law.¹³

¹¹ "Students apologise for muck-up pranks" *Wagga Wagga Daily Advertiser*, 19 October 1991

¹² Cited in B. Coates, N. Couling, K. Dymond & J. Jamieson *Report on Support for Young Offenders who have been subject to the Wagga Wagga Police Cautioning Process*, Wagga Wagga: Charles Sturt University School of Humanities & Social Sciences, August 1992

¹³ Criminal Information Reports, Patrol Intelligence Officer, Wagga Wagga Patrol. cited in T.A. O'Connell "Wagga Wagga Juvenile Cautioning Program" in L. Atkinson & S. Gerrull (eds) *National Conference on Juvenile Justice*, Canberra: AIC, 1993, pp. 221-2

The introduction of the review committee and of effective conferencing using family group conferences had a yet more dramatic influence on both the rate of cautioning and the total number of interventions. Having fallen from 425 to 355 from 1989/90 to 1990/91, the total rate of police interventions involving young accused fell even further in 1991/92. Total interventions for that year were 186. Several factors may have contributed to this marked fall in the number of interventions between 1991 and 1992. It is possible: (1) that officers were anticipating the review of their intervention by a sceptical group of sergeants on the weekly review committee; (2) that officers were showing a heightened concern for the rights and needs of victims, and that this correlated with (3) a reduced concern with technical trivia; (4) that fewer offences against good order were being committed and/or detected. Certainly, police statistics show that of those 186 individuals who were subject to police intervention, 72% were cautioned rather than issued with a court attendance notice.¹⁴

The introduction of the family group conference as an option for dealing with juvenile justice cases can be seen as part of a broader package of initiatives guided by the philosophy of community policing. Nevertheless, the process itself seems to have had a significant effect on the nature of policing in the Wagga patrol. The introduction of the new process is associated with a substantial decrease in the total number of police interventions involving young people, and with a substantial increase in the number of those cases dealt with by way of "caution" rather than in court. The reason for the growing willingness to deal with a case by way of caution is almost certainly that "cautions" are usually now more significant interventions than was formerly the case. In sum, police are intervening less, but they are ensuring that more is done when they do intervene.

The sorts of outcomes achieved in conferences help to explain the growing willingness of the review panel to have cases dealt with by way of family group conference rather than court. The most significant outcomes of the process appear to be the constructive agreements reached by participants, the high rates of compliance with those conference agreements, high rates of victim participation and the general satisfaction of participants with the conference process. Some of these outcomes are easily measured, and will be discussed further in the report. Others have been related among police as individual anecdotes. The power of this culture of "war stories" should not be underestimated. The beat police consciously promoted the telling of "war stories" by making them readily available. From early in 1992, investigating officers were encouraged by conference coordinators to attend conferences and to observe outcomes. Their direct input to the conference process has usually been minimal, but they have been impressed by the experience of a cooperative and constructive response to the offending behaviour of young people.

The telling of war stories about the process, and the high degree of police involvement with the introduction of the new model, seem to have contributed to an acceptance of the model among police. This reform seems not to have caused the resentment and frustration so common when new duties and programs are simply imposed by senior or middle management on rank-and-file police. Police have been able to adopt the new model at their own rate, and to feel some ownership of that model. An important

¹⁴ *ibid.*

distinction must be reiterated here, however. The *model* has certainly been established as a significant modification of police practice, and one over which police feel they have some control. The family group conference *process*, however, is essentially controlled by the whole community of people participating in a conference, not by police. The next chapter considers the nature of that process in detail.

CHAPTER 2: FAMILY GROUP CONFERENCES

The Family Group Conference has been variously described as a process of diversion, cautioning, mediation, restitution or reconciliation. Certainly, the process shares features with other processes that bear these various titles. As it operates in the Wagga model, the family conference process does indeed divert victims and offenders from the court system. It does proceed within the common law and statutory legal framework of cautioning for young offenders at the discretion of police. It is superficially similar to mediation insofar as the two major parties to a dispute are helped towards a mutually acceptable resolution by a third party. That resolution often includes material restitution for the victim, and generally achieves some degree of reconciliation between victim and offender. Nevertheless, all of these terms are inadequate as alternative names for both the process of family conferencing and for the model in which that process is employed. The model aims to achieve more than diversion or cautioning. A degree of reconciliation between victim and offender is only one of the outcomes achieved during or after a conference. The legal and moral basis of family conferencing is quite different to that of traditional mediation. So the terms "diversionary conferencing" and "victim-offender reconciliation" each tell only part of the story, while the term "mediation" confuses the issue.

The term "diversionary cautioning" appeals to those concerned with systemic efficiency, or to those who believe that the court process is inherently damaging to the offender. Diversion offers to save taxpayers' money, to avoid the stigma of a court appearance, and to avoid the possibility of an offender acquiring a stigmatic criminal record. The diversion nevertheless involves some sort of formal cautioning in order to register that an official intervention has occurred.

The term "victim-offender reconciliation" generally appeals to a different constituency. It is most attractive to those with faith in the transformative power of forgiveness. The philosophy underlying victim-offender reconciliation programs holds (correctly) that forgiveness offers benefits to both parties, relieving them of the burden of anger, shame, fear, distress, and disgust. The main aim of a victim-offender reconciliation program is to offer both parties a means of escape from these negative affects. Proponents of the goal of victim-offender reconciliation have, however, questioned whether such programs can operate within the boundaries of a criminal justice system that is built on notions of punishment and retribution administered by the state. Furthermore, a program bearing the title "victim-offender reconciliation" runs the risk of alienating or offending victims, because the title suggests that the problem is theirs. It suggests that they need to be reconciled with the person who offended against them.

The term "mediation" appeals to a broad constituency. Like the term "diversionary cautioning", "mediation" offers to reduce costs and provide an alternative to court. It also offers to produce the reconciliation which is the central aim of "victim-offender reconciliation" programs. The term "mediation", then, apparently applies to a process that offers diversion, cautioning, *and* reconciliation. Accordingly, some observers have applied the term "mediation" to family conferences. This is a mistake. Mediation and family conferencing are not synonymous. Superficial similarities between the two processes should not obscure the fundamental differences.

Mediation proper occurs when two or more parties each have an acceptable claim to some social good. The mediator enables those parties to "meet half way". The parties are guided towards an optimal solution through conciliation, cooperation and compromise. The important point to note here is that the parties to a process of mediation entered that process from a position of rough moral equivalence. The starting point for a family conference is fundamentally different.

A family conference is convened when a contest between victim and offender has already occurred - on the offender's terms. One goal of the process may be to begin a longer process of restoring the moral equality of participants. The incident has clearly transformed those affected into an offender or a victim, and both major parties attend the conference in one of those roles. Yes, in the longer term, the labels of "victim" and "offender" may gradually be removed. However, the conference is convened, in the first instance, to address the consequences of an incident. The immediate goal is to repair material and emotional damage, and to minimise further harm. These are the processes of *reparation* and *restitution*. As this process nears completion, so the moral status of the offender should be restored. Likewise, the status of the other party as victim should come to seem less important than that party's ordinary moral status as a citizen. This is a process of *restoration*. Thus, as reparation, restitution, and restoration near completion, so the moral status of the two parties may approach the state of equivalence that existed prior to the act of victimisation. At the start of a family conference, however, the moral status of the two parties is profoundly unequal with regards to the act at issue. To see "mediation" and "family conferencing" as synonymous is to overlook the fundamental moral differences between the two processes.

In sum, then, diversion, cautioning, reconciliation, mediation, and family conferencing all share some features, and yet they are all different processes. They differ, in turn, from the central process of modern criminal justice systems - appearance in court before a judge and possibly also a jury. And these differences serve as a reminder that any criminal justice system consists of diverse institutions and practices - institutions and practices with differing origins and with goals that may diverge or conflict. The values underlying any practice or process within that system will be influenced by several factors. One factor is the goals of those who originally designed and implemented the process. Another factor is the nature and position of the department with responsibility for it. Yet another factor is the goals of those officials who now have responsibility for the process. The goals of these officials may diverge from the goals of their employing institution, and from the goals of those who implemented the process.

The goals of institutional and individual players in criminal justice systems have varied considerably. They have included: punishment as an end-in-itself; punishment as a demonstration of power (of the state and/or the punisher); punishment as a form of deterrence (both for a given offender and for other potential offenders); punishment as a means of atonement - on the part of the offender - to the victim, the community, or the state; punishment as a means of demonstrating to the victim that the state condemns the victimising act; deprivation of liberty on grounds of public safety; therapy and rehabilitation; the provision of material restitution to the victim.

These various goals have been listed here along a spectrum ranging from the authoritarian to the therapeutic. Public policy relating to criminal justice in modern states has oscillated between these two poles. All the listed options share two features. First, they involve treatments administered by the state. Second, the involvement of victims is never more than symbolic or rhetorical. The state determines whether accused and accusers are, in fact, offenders and victims. The state then punishes offenders on behalf of victims. Where a victim's voice is heard, it is to enable the state to choose a tariff for an offender that is deemed more appropriate. Under these arrangements, the victim can never be more than a means to an end.

Given these fundamental rationales, proponents of "victim-offender reconciliation" and related alternative programs have wondered whether any practical restitution process can operate within modern criminal justice systems. The goal of victim-offender reconciliation is simply not a concern of modern criminal justice systems. The assumption that victims desire vengeance is built into the central institutions of the system. Mainstream criminal justice then deals with material negotiations rather than emotions - other than righteous anger. Goals such as the restoration of trust, the reduction of social conflict, or the transformation of social relations are thus generally outside the purview of criminal justice systems as they are currently constituted.

Nevertheless, the experience of programs in North America and Western Europe that have pursued goals such as victim-offender reconciliation suggests that it is possible for such programs to retain their integrity. Experience suggests that they are most likely to retain their integrity if located at the point where criminal and civil law intersect. This is, in effect, where the process of family conferencing has been located in the Wagga model. The origins of that model have been described in the previous chapter. The process is convened by police who, as a function of their threefold historical mandate, act as gatekeepers of the criminal justice system. Yes, police are responsible for law enforcement, but they are also responsible for the broader task of "keeping the peace" and for the provision of miscellaneous and emergency services. Constabular discretion is employed in the event of conflict between law enforcement and the other elements of this threefold police mandate.

In the Wagga Wagga police patrol, both the Patrol Commander and the officer in charge of the Beat Police came to the conclusion that more thought needed to be given to this gatekeeping role. In particular, they thought, the approach by their colleagues to the problem of juvenile offending needed to be changed. The current approach was fulfilling the technical requirements of law enforcement, but was actually working against the spirit of their broader "peace keeping" mandate. Other members of the local community agreed. The Wagga model was developed in response to this perceived problem. Under the new model, the law is invoked in response to an act of victimisation, but the damage arising from that act is addressed within a model of peacekeeping rather than law enforcement. That is to say, the institutional position of the process is at the point where civil and criminal law intersect; criminal law is invoked to give a legal basis to proceedings and to put a legal safeguard around participants. Outcomes, however, are achieved not through the adjudication of state officials. Rather, they are achieved by civil cooperation in the spirit of "peace keeping".

Case studies have been provided here in order to convey to the reader some feeling for how such outcomes are achieved. Several case studies from Wagga Wagga have already been published elsewhere, but few details of the proceedings are included with those case studies. Detailed dialogue from conferences is provided here in order to illustrate the dynamics of the family conference process as it operates within the Wagga model. Of course, even with a complete transcript of proceedings, the full emotional "flavour" of conferences is still not adequately conveyed. The emotional engagement of all participants is a significant aspect of conferences, and that engagement is only hinted at in the participants' choice of words. Nevertheless, the words chosen by participants, the sequence in which they speak, the nature of their moral reasoning - all of these factors are also significant. These transcripts illustrate such factors well. The transcripts also indicate the path by which groups move towards some acceptable resolution of the problems created by the original offence.

The dynamics of this process are vitally important to participants. Comments made at these and other conferences - and in subsequent interviews - confirm the findings of related research into popular perceptions of the law. Such research has suggested that people tend to be at least as interested in the way decisions are reached as they are in the details of those decisions. Most people are particularly concerned that the processes by which decisions are reached are fair, and are seen to be fair. And one of the notable features of these transcribed conferences is how frequently participants choose to comment on the fairness of the proceedings.

The order of proceedings followed in these conferences is essentially the same as that described in the *Conference Coordinators Manual*, a publication prepared a few months after these conferences were recorded. By that time - the middle of 1993 - the model had been evolving for some eighteen months. A standard basic format had been developed. Participants, coordinators and observers seemed satisfied with that format. (The manual is reproduced in the second appendix to this report.)

The fourteen conferences discussed below were convened by Terry O'Connell in blocks of three or four conferences. Apart from the choice of coordinator, the conferences were chosen at random to be recorded, and were recorded with the agreement of all participants. They are reproduced here in chronological order. (Details of research methodology are provided in the first appendix.) Names and some minor details have been changed in order to protect the privacy of participants. Transcriptions are otherwise accurate.

As discussed in the previous chapter, the format of these conferences clearly owes much to the original New Zealand Family Group Conference. It was also influenced by crime prevention workshops run by members of the beat policing unit in Wagga as part of a school liaison program. Part of that program involves an exercise in which students are asked to imagine themselves in the position of people affected by crime. Their responses are written up on a board and discussed at length. In the early stages of developing an effective cautioning scheme based on the New Zealand experience, Terry O'Connell and colleagues had considered adapting this pedagogical method as part of the conference process. The idea would be to ask offenders how they thought the victim(s) of their behaviour might feel, to record those responses, and then to ask the victim to join proceedings and compare notes, as it were. This idea was discarded

for several reasons - it would seem rather obviously stage managed, over complicated, potentially melodramatic, and could be seen to be using the victim as a means to an end. There was no need for the mediation of a whiteboard. The alternative was simply to devise an appropriate sequence for the first contribution of each participant and to follow that sequence. "Keep it simple!" became a cardinal rule. After a small amount of trial and error, a sequence was arrived at that seemed consistently to encourage dignified proceedings ending in mutually satisfactory agreements. The sequence was as follows:

- * The coordinator invites participants into the conference room. The victim(s) and their supporters enter and are seated on one side of the circle of seats, to the left of the coordinator. The offender(s) and their supporters then enter and are seated to the right of the coordinator, who then opens the conference and introduces participants. The coordinator then requests the following to relate their version of events before, during and/or since the offence:
- * The offender (If there is more than one offender, each is requested to relate their version.),
- * The parents/guardians of the offender(s),
- * Siblings of the offender(s),
- * The victim,
- * Supporters of the victim.

A general discussion follows, the sequence of which is effectively determined by participants. Each stage of the conference is characterised by strong emotions. The coordinator may prompt the shift towards a resolution by asking the victim what they had hoped to see as a result of the proceedings. The final stage of the conference follows. It involves negotiating a collectively suitable agreement, and this negotiation generally takes about ten minutes.

The conferences discussed below follow this basic format. Nevertheless, debate was continuing on the issue of which types of case were or were not appropriate to be dealt with by way of conference. The question of who should or should not attend also remained open. The outcomes of these conferences actually provided some answers to such questions

CASE ONE: LARCENY AS BAILEE

This is an unusual offence and was a very complicated case. There was far more to it than came to light in the conference - as was made clear in a subsequent interview. In essence, however, the unapproved sale of a horse by the daughter of the owner was brought to the attention of the police by the owner of the horse. The gentleman who bought the horse was well known to local police for various other reasons. As soon became clear, however, the question of who owned the horse was not the real issue in this case. In fact, the conference developed on lines closer to those of a traditional mediation. The question of who was a victim and who was an offender was not entirely clear cut. What was clear was the degree of painful estrangement between family members. The conference resolved some of the outstanding issues, and the outcome proved acceptable to all participants.

The conference began with the usual greeting and introduction of conference participants. The coordinator then offered the following observation:

From the outset, I really should say that this is a very complex matter. We need to have a forum to resolve a lot of the issues. You know what I'm talking about.

The person in the middle of this is Detective Senior Constable Will P_____ who's had a hopeless task. What is really different about this is that the complainant in the matter is the father of the offender. I don't want to use any more technical terms. What we really want to do today is to talk about what happened. I talked to Will about this and because of the unique circumstances I am less inclined to treat this as a formal caution, but nonetheless we still want to try and resolve a lot of the issues.

Since the daughter was technically the offender in this case, she was asked to speak first. She provided her version of the circumstances that led to confusion about who owned the horse:

A few years ago we went droving and seen a stock horse over at Colin V_____'. So he went over and bought it and he said it was a male horse, and so I just virtually thought it was my horse, I could do what I liked with it, and a few months later if I didn't treat the horse right he'd say, "I'll take it off you and I'll sell it and it won't be yours anymore". Dad and I used to get paid \$200 a week, so I saved up \$200 a week to make \$800 I paid that \$800 for the horse and Dad went over and told Colin that the horse was mine, legally mine. I said to Colin, I said, "At any time would I be able to get a receipt, like if Dad ever says that the horse was his?", and he said yes. As far as anyone knew, that horse was always mine.

The coordinator emphasises that this is not a trial, and that Libby is not being interrogated. Nevertheless, he is curious to know why she went to Colin - the alleged receiver of a stolen horse - when she was confident that she owned the beast. Was she not confident?

No, I had the horse then and I just wanted a receipt. No I don't know why I got it. I just wanted it. So I went over and got it and Will kept it and he said "Would I be able to get a statement from you?" and I said "All right". So I told him how I got the horse, and how it was mine and how I paid for it.

Some confusion about statements and interviews is cleared up with Will - the investigating officer - who says that Libby's story now is indeed the same as the version she had given earlier. The coordinator then asks her how she felt when she heard that her father had accused her of horse thieving:

He was a real arsehole, to put it polite. I don't really like him much at all, and I sold the horse.

Libby explains that she gets on well with Colin - to whom she sold the horse - but has had a falling out with her parents. The coordinator acknowledges that this affair must have been very difficult for Libby's parents. He then asks her father, Doug, to give his version of events leading up to the sale of the horse:

As she said, it started off...I'll change the story a bit. I bought the black horse originally for myself. He's a good horse, handy on cattle, good buckler there and she kept pestering me, "Dad, why don't you let me ride him?", and I said to her one day, "Well, he will buck and I'm scared you'll get hurt", and then I said, "No, alright, ride him and he's your horse until such time that you cannot handle that horse. He is never to be sold and he must come back to me if he's too strong for you that you feel you've got to get rid of it". That's the statement I made.

As far as my daughter sitting there and saying that she bought him, that she would have to pay me for him! If she only realised that I would die for her, you know, whether it involved police, or whatever. It would not worry me, because I love her that much, you see. That is the difference between me and her. For her to sit there and say that - she can try and do it, but she can't hurt me, that's it.

But quite clearly, of course, she had hurt him, and she had hurt her mother, too. Her mother was asked what she thought:

Well I think it's shit, putting it politely, because she knows what we feel about her. We give her everything and anything, and everything she wants. Probably one thing we didn't give her was a bit more chastising. There's other things she never got. Everything she seen in the shops she got because we loved her that much, but that no one could ever replace and she should know that.

Did her father think she resented being taken out of school to go droving, as she claimed? He thought not, and gave plausible reasons why. And what did he think of the man to whom she sold the horse?

Well I wouldn't have minded if she rung me about the black horse and she got a fair deal on it. I wouldn't have minded if she sold whatever she had, but she let us down and let us get ripped off.

An argument emerges, shifting from whether Libby was ripped off, to whether the horse was a good horse or a bad horse, a wild horse or a docile horse:

I don't want to start arguing. I had it on my video bucking - you know our kids had their Christmas presents out there and they bring the horse up what we bought for them - it's wild. Popped the top rider, put him in intensive care and jumped all over the Christmas presents. That is that quiet horse!

And from there to whether the possibly wild, possibly docile, possibly worthless, possibly valuable horse had been captured on video misbehaving...Libby dissents:

I call that a lie because you never seen the video.

From there the argument leads back to the issue of what happened to the horse, what money changed hands, and why a receipt was necessary if ownership was not in dispute. It all proves baffling to the investigating officer:

So forgive me if I'm lost, but as I understand it we have now got three versions from you on what's taken place, is that right? First of all, you paid Colin for the horse back in 1991, or some time back in the past. Then the other day when you came up and when you were interviewed by me you told me that your father bought the horse off Colin. Now you're saying you paid Colin for the horse recently - or when?

Libby says she gave different versions of events because she wanted nothing to do with the case. Being uncooperative was, in effect, a way of punishing her father for dragging her into the whole business. The coordinator shifts the focus at this point to Libby's de facto supporters - her boyfriend and his parents, with whom she is currently residing. Libby's father is asked about his perception of the whole affair, and how he came to be involved in it:

We moved here about eighteen months ago, right. As far as I know - like my son, when he's cranky with me he'll say things that he doesn't mean. I have not seen Doug hassle my kid, right. I've never seen him do the wrong thing. He always seems to get a fair go. The story with the horse when we come here, as far as I know - as far as everyone knows - and this is not putting you down, Doug - I'm telling you what I know and that's it. The horse belonged to Libby, that Doug bought it for her, that Libby paid her Dad back through droving.

I'm only getting it from Libby, but I've been led to believe that all the time - everyone in Riverside has been led to believe that story. Colin V____ used to feed it. Old Jim H____ used to do it too - for nothing - to help Libby out. As I said, I'm an innocent bystander. I don't know the full story of the horse, but I think the whole crux of the matter boils down to Doug - and I want to be honest - the horse isn't the problem. It's friggin' V____. This is my opinion. If you've got a problem with V____, bewdy! You work it out with V____, but I don't want to be dragged into everything, and I don't think Libby doesn't, Raelene doesn't, and Simon doesn't.

LILA: For starters, we didn't drag you into nothing. This only concerns Libby.

But Libby's boyfriend's father disagrees. The incident has affected relations between him and his son, so it is certainly his business. This leads him onto the general problem of family tensions, and he suggests a conciliatory rather than an adversarial approach. His words are addressed to Libby's father:

If we can't sit here and work it out instead of people back-biting - like Libby says she hates your guts, but you know damn well she doesn't mean it. You know that. The same as Simon said it to me and I know he doesn't mean it, but in my outlook the horse is just a minor thing to get even with. You work it out the best way..

COORDINATOR: Sean, also there is an emotional problem with Libby in this.

SEAN: She's crossed between two sides, I think.

COORDINATOR: Yes, okay. You think about Will's position in this.

The coordinator uses this opportunity to address the tension between Libby's boyfriend and the investigating officer, who has been treated with contempt. The contempt, the coordinator suggests, is aimed at police in general, rather than at Will. Simon had told the coordinator he simply disliked police:

COORDINATOR: Simon, I'd like to [clarify] that one - you don't like coppers?

SIMON: No, I don't

RAELENE: Sorry, my kids have been brought up with quite a few of them and I don't know where he's got that attitude from.

Nevertheless, Simon had told the coordinator that he thought it was a good idea to try to sit around and "talk it out". So what did he have to say about all of this? What were his thoughts? How did he want it resolved?

It's all a load of shit./ I don't care, I just want it finished.

His mother asks him how he feels about the affair:

I don't feel real good.

Simon's mother, Raelene, then delivers a lengthy speech, saying how much it hurts her to see parents turn on their kids. She talks of how Barbara had once got on so well with her parents. The suggestion that Libby has been rejected by them, however, brings a sharp response from Libby's mother, Lila. She loves her daughter, and furthermore, she has done everything in her power to ensure that Simon did the right thing by his parents. This leads to escalating claims:

LILA: Even Simon. I've told him when he was living at home, "Ring your parents, speak to your parents", haven't I, Simon? So don't put me down.

RAELENE: My son's like me, he's very proud.

LILA: Not half as proud as what I am!

RAELENE: And I didn't expect my son to come back and speak to us in a hurry because he's like me. It's not an easy thing to do.

LILA: I will tell you what: If you loved him as much as I love her, you'd continuously ring. You'd try and be there. That's love and devotion. I have put everything into..

RAELENE: If she doesn't want nothing to do with you, why hassle a child? Why not leave the child alone and let the child work it out?

Suddenly, the argument turns to an exchange of nostalgia for the time when Raelene, Sean, and Simon first arrived in town, and how well they had got on with Lila, Doug, and Libby. Raelene suggests that the relationship deteriorated over issues to do with horses. The same is true, she suggests, of Libby's relationship with her father:

That's why she sold [the horse], so you wouldn't harass her any more because she was scared you were going to take her horse and you were going to shoot him and do away with him to deprive her of him.

LILA: I tell you what, you exaggerate a lot for a woman!

RAELENE: No, I've never exaggerated in my life.

LILA: Well you have done a good job of it now.

Again, the coordinator shifts the focus slightly, reminding Sean - Libby's boyfriend's father - about an earlier conversation they had had:

Sean, when I was talking to you, you expressed some concerns about Simon and Libby in terms of living together.

Sean is not happy with them living together. Raelene feels she can do nothing about it. Doug had been worried about their legal status, since Libby had not turned sixteen when she moved in with Simon. But Doug has nothing against Simon, nor has Lila. So that issue is resolved as much as it is likely to be. Sean turns to legal matters. He feels sorry for Will - the investigating officer - who has had to make sense of an extremely confusing issue. Sean raises the issue of what may yet happen with Colin V____. He and Will begin a discussion, but the coordinator suggests that any such discussion may simply confuse matters further, while not contributing to the resolution of the issue at

hand. Simon agrees that it's all very complicated. So the coordinator offers a summary of the issues to date:

COORDINATOR: Yes, it's tricky, isn't it? Libby, have you got a better understanding from what's been happening here? I'll tell you what I make of it. It's really clear to me that here we've got a group of people who have got some regard for one another, okay. You don't hate one another. There's a daughter involved and there's a son involved, and you can live with that.

That's not a problem because you've got a regard for all of them. There's a horse. The horse has become a means to an end. I know what you've said. You think that Doug's trying to get at Colin. I don't know, but I don't think it matters. Why we needed to come together was to make some sense of it so that we could stop the tension so you people can get on and live your lives. I'd like to see Libby reconcile some of her differences with her parents.

Whether you accept it or not, it is obvious they do love you. It is very obvious. Simon, it's no good being angry about things all of the time. These people have regard for you too. You have obviously got lots of regard for them all. You people have got lots of regard for one another - none of it makes much sense, does it? So in terms of this caution, I have spoken about this. We are not interested in making a record of this per se, but we are interested in doing is bringing people together so that you can start to get on. What are your thoughts on that, Doug?

Neither Doug nor Lila have any difficulties with that outcome. But Lila adds that she has been greatly hurt by Libby's attitude to her and Doug. That sparks another angry and distressing exchange:

LILA: How can you sit there and hurt your Dad?

LIBBY: How can you sit there and call me into this room?

LILA: You put yourself here?

COORDINATOR: I think we can go on. We don't want anyone to get hurt any more and it's been very difficult for you. what I'd like to see you do is to go away and agree to come back together, not with me involved, but at a time where you can work out some of these differences. How do you feel about that, Doug?

Each of the participants are asked in turn whether they are happy with that outcome. They are, they thank the coordinator, and the matter is resolved. Subsequent interviews suggested that participants were impressed by the process, despite the complexity of the case. Some of their responses are discussed in chapter 4.

CASE 2: MALICIOUS DAMAGE

This case involved the sort of unthinking vandalism with which police regularly have to deal. The perpetrators were aged ten and eleven. The conference reached an agreement for reparation which all participants found acceptable.

The conference begins with an introduction, and a reminder that people are here to find out how this incident has affected others. Nadia - the younger of the two - says that she and Jason were simply walking along, saw a car, and scratched it. Jason pays more attention to the immediate consequences of their actions:

We were coming back from the playground. We were walking past and scratched the car. Then this person took us in and went into a couple of rooms and then the police came and they were asking us all these questions and they took us to the police station and they rang our mums.

Both Nadia and Jason had discussed the issue at home, but not at school:

COORDINATOR: Did you talk to your mates at school?

JASON: No.

COORDINATOR: Why?

JASON: Because I felt funny. It wasn't the sort of thing you talk about.

COORDINATOR: No it is not. Since then we have discovered there is a whole lot of people affected. Let's find out what happened to Ms Johnson, the victim. You must have been shocked?

MS JOHNSON: I was. I was devastated, to be honest. I only had the car two months. I was quite proud. I still am. I worked hard to get a nice car. And to leave it for five minutes at a registry office in the middle of the day - if it was a Saturday night in the main street maybe you could expect something like this - but older people, not children.

The victim then asks Nadia a series of questions: Where did she get the knife? Did they do any other damage that day? Her affirmative answer provokes an angry response:

What about them poor people? You didn't get caught. Maybe you didn't think you'd get caught with when you done my car. You wrote me a letter and told me how sorry you were. You had never done anything like this before. Now we find out you have done another car! How many other cars did you do? My friend has been good enough to drive me around. It is a bit hard to ask somebody at half past six in the morning to come and pick you up.

The coordinator asks Ms Johnson's friend about the incident, and the effect it has had on her. She doesn't mind the effort, helping out a friend. But it has been a trying time. It has also been very difficult for Nadia's mother:

I mean, she had never done anything like that before in her life. She's usually good. She's always been good, reliable, trustworthy, you know. She doesn't do anything wrong.

The coordinator asks her how she feels. He asks Nadia's father how he feels. He is baffled. He "couldn't understand it". A family friend speaks on behalf of the parents:

It is probably harder on the parents. They are probably feeling, probably more and hurting more than what the kids probably are. We are parents. We know what it's like.

So how do Jason's parents feel? His mother speaks first:

Very upset. Couldn't believe it at first. I still can't adjust to the fact that he's done something like that because he's never shown - he is a typical boy. I'm not saying that he is the perfect child or anything, but he's never done anything to his brothers or sisters. He's usually pretty good with them. We just couldn't believe it.

Jason's brother and a family friend offer some comments. Nadia is asked what she has learned so far:

Never to touch other people's property.

COORDINATOR: So it was a dopey thing to do, was it?

NADIA: Yes.

COORDINATOR: For someone who is considered by Mum and Dad as a pretty good kid, it was a dopey thing, really.

A similar exchange takes place with Jason. Then the victim is asked why she wanted to attend the conference. She's concerned about a \$300 dollars in insurance costs. A sequence of apologies is offered. The apologies are accepted. Then the substantive issue of costs is addressed. The bulk of the \$1100 costs are to be borne by the insurance company. Given the age of the offenders, the parents agree to split the burden of the remaining \$300. The coordinator finalises agreements, and concludes with a a summary of the issues:

I really didn't hear them say that Nadia is a bad kid or didn't say that Jason was a bad kid. What they said was they are good kids. They normally wouldn't do anything like this I can't understand why. Do we understand that? We all want to be friends out of this, don't we? Okay. We want to be able to park our car and come out and think we can get into it and it is in the same condition when we left it. Do we understand that?

Both Nadia and Jason agree that they do. An agreement is signed, participants are thanked, and the conference concludes.

CASE 3: STEALING AND TRESPASS

This case involved the theft of clothes from a backyard clothesline. The three people affected had earlier been the victims of a more serious burglary. Furthermore, since the case in question, they had had other clothes taken from their clothesline. They had good reason to feel annoyed. So after the introduction, the coordinator sets the parameters:

It's important that we focus on what Troy did, okay? In other words, what I think we will find is we don't like the behaviour, but we will probably find that Troy would not be a bad sort of young fellow. I'm sure that will come through. But on my right here are people who are directly affected by it, and we will discover in what way. Hopefully, Troy, at the end of this you will understand that when you do something that's inappropriate and unacceptable, that you realise it affects a whole lot...can we just hang on? It sounds as though we have got two more additions. You're a friend of the family?

Troy's uncle enters the room. He is greeted and seated. Troy begins the story of how he came to be at the scene of the crime. Troy's father then appears at the door of the conference room. He is greeted and seated. The story continues:

And I was with a friend and he said, "Oh, nice tank top that he had, nice t-shirt!", and I said, "Do you want to swap for it?", and he said no., and I said, "A pair of jeans?", and he said, "Yeah". And then we walked past this new pair and I said, "Would those there ones be good?", and he said, "Yeah, they'll probably fit me. Get 'em and I'll swap you". So I went and pushed me bike up against the fence, got on the bike, jumped on it and I jumped over and got it and there was a t-shirt with it, purple t-shirt, and I grabbed that

there and I jumped back over the fence and I saw someone looking out from the back of the fence or something and so...I don't know what it was, so I gave my bike to him and said, "Get on out of here". And then I was walking, and I started to run with the clothes, because I didn't have my bag. I got up to the corner and I put them in my bag and I started running, and then next door, you know where the lane is?

The story continues, with some pauses as Troy stops to confirm that the coordinator and the victims know exactly what corner, what fence, what shop he is talking about. The otherwise excited retelling ends with "They came and got me":

Who was that, the police?

TROY: I don't know who it was. I forget. There's a young fellow, and they took me. Did I say that?

Troy is asked how things have been at home since the incident, whether he has talked to friends about it, and what he had thought about since. The answers, respectively, are not good, not much and not at all. So one of the three victims is asked what she felt about the whole affair:

JENNY: Pretty surprised to think that you couldn't even leave your own clothes on your own clothes line.

COORDINATOR: Were you annoyed about that?

JENNY: Yeah, because we had only been broken into about a month before at another place, and we moved so we could feel safe again.

Jenny's flatmate, Sam, is asked about his involvement in the incident. He had actually chased Troy when he saw him jump the back fence with clothes from the line. He describes the chase, being sworn at by Troy's colleagues, finding the police as they apprehended Troy:

The police got in the car and took off, so I just went home and sort of...the after-effects were worse because once I had actually sat down and thought about what happened, myself and Jenny sat down and we were sort of pretty upset and couldn't believe it had happened. As it was we were at the stage where every noise that was made outside we were sort of checking it out and having a look outside because of the break-in prior to that, but since that little incident with the clothes we were more so - listening for the back gate with a sort of paranoia.

JENNY: We sort of would sit out there and watch the washing dry.

SAM: The girls won't put out any washing any more because they are just afraid that it's going to go, because shortly after that incident, actually, another pair of pants and a shirt went missing off the line. We didn't report that. We sort of just left it and took it on the chin, sort of thing, but since then the girls haven't been hanging the washing out on the clothes line. We have been putting it in the shed to dry, and it's an inconvenience as well for us to feel that we can't have the use of our own backyard...

Andrea, who wasn't there at the time, has also been affected by the compounding effect of one burglary and two thefts, of which this was the first. She describes some of the effects this is having on her time spent at home. The coordinator then asks Troy's mother how she has been affected by the incident and its aftermath:

At first I was shocked, because he's never gone and done anything like that. I think I have coped pretty well with it. I mean, he was grounded and that. He's suffered. Everyone in the family has suffered, but most of all I think he has, and he has learned his lesson. He knows he is not to steal, and I hope by being here today he has learned his lesson.

COORDINATOR: When you say the family suffered, what do you mean by that?

TROY'S MOTHER: We had our ups and downs. We couldn't let him go anywhere, He's been grounded.

COORDINATOR: What's happened? There's a question of trust there?

TROY'S MOTHER: Yes. I don't trust him like I did before. He knows that. He has betrayed my trust...

Troy's mother explains how she's working with Troy to restore some of that lost trust. she is also trying to deal with some of the attitude she feels he's picked up from "rough boys". The coordinator turns to Troy's sister:

COORDINATOR: How is the sister, Sarah, going?

SARAH: Ashamed!

COORDINATOR: It's been hard for you, has it?

SARAH: Yeah. I can't believe he would steal from anyone. I can't face anybody.

TROY'S MOTHER: It's most hard because I can imagine how they feel, having their property taken. It's happened to me. I mean, brand new jeans that I hadn't worn, things they had taken, so I could understand how they feel, how bitter they are. But they are lucky they caught the person, or know the person, or know the person who did it. I never had no proof. I had my suspicions but I just couldn't prove it, so in a way I know what you are going through to have stuff taken from you.

And Troy's father?:

FATHER: I was a bit upset. I wanted to flog him. I was going to get stuck into him.

COORDINATOR: He's not a bad kid, is he?

FATHER: Only when he started knocking about with them. He started playing the clown because of them.

Troy's uncle is asked what he thinks about the incident. He doesn't seek to apportion blame. He is simply shocked. This is quite out of character. Molly, a friend of the family, agrees:

When Sally came around to our place Sally was upset and then...Troy was like a member of the family, and I was shocked. I couldn't believe it. It was so out of character for Troy. I just couldn't believe he had done it. Since the event he's spent most of his time with my young son. Even after...I mean, I think it was just a one-off, and unfortunately he was in the wrong company, and he's not in that company any more, and he's basically a good kid.

The coordinator suggests at this point that everyone has done something silly in their time. He raises the issue of personal responsibility, however, since three people in a row have now portrayed Troy as a victim of circumstances, led by the wrong people. He had clearly thought about what he wanted to do, hadn't he? Yes. And decided to do it because he wanted to? Yes. So what has he learned from the experience?:

That I should go to the family about things sometimes.

Troy and the coordinator discuss some related issues, then Sam asks - without accusing - whether Troy knows anything about the more recent theft under similar circumstances. He doesn't. So is there anything else that those affected by the incident wanted from the conference?

JENNY: I just wanted to know what sort of person did something like this.

COORDINATOR: How do you feel about Troy now?

JENNY: He seems nice enough, but it's hard when you can't put a name or a face to a person because they are just a total stranger.

COORDINATOR: What about you?

ANDREA: Just to let you know how we felt, how other people are going to feel if he does it again. You just don't do those sort of things. I mean, he wouldn't like it if he had a good pair of jeans on the line and we knocked them off.

SAM: That's what I was going to say.

ANDREA: Yes, and he comes running back to his mother and says, "Mum, someone's knocked me jeans off". He wouldn't like it. That's exactly how I feel.

JENNY: Exactly.

COORDINATOR: What did you want to say?

SAM: I just basically wanted to meet Troy. Like Jenny said, put a name to the face. I just really wanted to see what sort of boy he was, and I think it took a lot of guts for Troy to come down here, and I think this is part of life, facing up to your responsibilities and learning from your mistakes, and not doing it again, because it's just going to get much worse.

Troy extends apologies to all present. The clothes have already been returned. Is there anything else that the victims want from the conference?

SAM: No, not really. I would just like to say thank you all for coming down.

FATHER: I would just like to say I'm sorry for what my son put you through.

MOTHER: It must be terrible because when I had my jeans stolen, my window was just there, and the clothes line was right next to it. It happened in broad daylight. It's just disgusting to think that you can hang clothes out on the line and someone goes and takes them!

JENNY: The worst feeling was because we had already, previously, been broken into, and that time they went right through the place, and that just topped it off. If it was just that, on its own, it wouldn't have been so bad, but we were already jumpy, as it was - and trying to settle in and feel comfortable where we were.

COORDINATOR: We want to try and keep this in context. It's not as though Troy has actually gone and knifed anyone. As I said, we all do some dopey things...

Everybody is thanked for their attendance. An agreement form is signed. It simply acknowledges the attendance of participants, and the fact that an apology was extended and accepted. Each participant is given a copy of the agreement. The conference concludes.

CASE 4: BREAK, ENTER AND STEAL

The actual incident in this case was fairly clear cut, and was technically a minor matter. The victims had nevertheless driven for over an hour, wanting to contribute to the conference and feeling that the police initiative deserved support. The course of the

conference was complicated by the involvement of a youth worker and a representative from the Police Citizen's Youth Club, both of whom had had considerable social contact with the two young offenders. The two professionals may have confused their personal and professional roles, influencing the conference dynamic in the process.

The coordinator acknowledges the presence of his colleagues during his introduction:

I have taken particular...licence, I guess, to invite Frank and Rod, because this isn't the first occasion that a few of us have been here together, and we want to address some of those issues during the night.

The introduction concludes with a familiar distinction between unacceptable behaviour and the people responsible for it. The coordinator reminds participants that the emphasis is on the consequences of that behaviour. Dion is asked to open proceedings by explaining why he and his colleague had broken into the car:

I was just walking around. I wanted some money to buy some smokes. We only had four bucks so we broke into a car to get some more money so we could buy smokes.

The circumstances of and motivation for the offence seem fairly clear:

COORDINATOR: Did you think the car belonged to anyone?

DION: Yes.

COORDINATOR: Did that matter to you?

DION: No.

Chris's insouciance is equally impressive. So what did they think about coming to the conference tonight? Dion didn't think about it. Chris admits to being a little bit worried, a bit frightened. So he agrees that the incident may have caused the victims some concern:

COORDINATOR: Do you think it was only the window that worried them? - because we are going to discover in a moment what they felt about it. Do you think it was only the window?

CHRIS: No, I think probably they would have probably felt a bit cheated because we were destroying their property without proper reason.

But before asking the victims whether they were, in fact, put out, the coordinator asks Chris who else might have been affected. His mother, his brother, himself. He dwells on that. Dion laments the after affects of the incident on himself - he was worried that he might be placed in the remand centre. And his mother has been upset by the whole affair. Did Dion really think about the victims? His mother answers for him:

We spoke about that. We did discuss it. I said to Dion, "How'd do you feel? How would they be if they had a baby in the car? You don't know whether they've got kids and got to travel back in the cold wind blowing on them". We had a big discussion about that. I done most of the talking. I got a bad temper, as these kids know.

So how did the victims feel? The coordinator asks them:

BARRY: Well, we came out of the Commercial Club. We'd just been to a function there, we were pretty happy. We roll up to our car and then discover that it's been broken into. Not a very nice feeling. Maybe when you get your car one day, you might - I hope you don't but you might...It's not a very nice feeling to have anything of yours broken into or defiled in any way by someone else. I guess in a way we were thankful that was all that was taken. I suppose it could have been worse, but the fact remained that apart from the inconvenience, it's the fact that something of yours has been broken into by someone that you don't know. Just the fact that...I suppose the callousness of it, if you like, just no thought for our property, I guess. Just the fact that we tried to go out of our way to do the right thing by everyone else, and it's sort of disappointing a little bit, and I guess the fact that we are here is because hopefully it will make a difference to Dion and Chris in the future. They won't make the same mistake again. That's basically how I feel about it.

COORDINATOR: Diane, did you get a shock?

DIANE: I did. I found the broken window, and my first concern was that there was a...some people in the car next to us, and I thought maybe they had a similar problem, and I first thought it may have been a stone. Once we got into the car and Barry noticed some things were missing, it made me feel a bit sick. Probably when we drove off I felt that feeling that people only tell you about when those sorts of things happen, or when their home has been broken into, the fact that someone has been in there and you don't know who they are, and they have no right to be there. I suppose the inconvenience, later on, of organising, replacing and different things is a bit annoying, and took up my time and our finances to repair it. We discovered that we were a bit annoyed, weren't we?...I certainly was...

So how does Diane feel now that she is sitting face to face with the two people responsible for spoiling her and Barry's evening?

Like many of us we react to the situation, and our reaction is a normal one. On learning about this process this evening, I thought twice about coming. The second time, realising that it was an opportunity that might help - I didn't know what the process might be - but if it's going to help and prevent a court...It might have an effect on the boys, that they might feel...That's why we decided to come.

The coordinator reflects on this publicly. Here are two victims of a thoughtless act of vandalism and theft who, when asked why they are here, say they want to do the people responsible a favour. Is Chris impressed? Yes. Dion? Yes. But they must already have discussed these matters? Chris's mother replies:

Yes. On the night we talked well into the morning about it, and about why it happened, and why they were out in the street at that hour in the first place.

COORDINATOR: Does it matter what Mum thinks?

CHRIS: Yeah, because Mum and I used to be pretty close, and things were starting to get to the stage where Mum wouldn't trust me, and I'm only just starting to get that back, and when Mum thought something was wrong, then I'd sort of feel bad about it and I would try and sort of fix it up. But it does matter to me what Mum thinks.

Chris agrees things are difficult, but says that he is making an effort to improve relations with his mother. Dion's mother says she is finding things difficult at home. Dion's stepfather is frustrated and angry. He doesn't need prompting to say so:

When a person goes out Tuesday night to this place where they all go down town, and doesn't return to the following night, and no-one knows where he is, it starts to get worrying. I'm telling you now. This is supposed to be the place where they are going to. As far as I am concerned they must be a pack of idiots, the whole lot of them down there, when he didn't return home...Cooked him a nice, good hot meal last night, didn't return home...

Rod, the youth worker, is familiar with these domestic circumstances. He also feels his youth group has been attacked by Dion's stepfather, and he now comes to the defence of the group:

And we talked about this last Tuesday night, about people's perspective and what [the Youth Group] is about, because of the things that you do...It doesn't worry me greatly what people say about or think about it because I know what [the Youth Group] is about. What concerns me is the behaviour that the young people do get involved...

DION'S MOTHER: ...Exactly!

But the matter won't rest there. Dion's step father is actually very frustrated and very angry. Rod is calm and secure in defence of the goals of his youth group. A clash of cultures follows - between the antagonistic and the therapeutic:

DION'S STEPFATHER: I'm telling you, I'm starting to get upset!

YOUTH WORKER: You are allowed to be upset.

Chris and his brother confuse the issue with a rambling argument about who was where, at what time, and how intoxicated they were. Chris's habit of raising his eyebrows in response to negative affects has the effect of antagonising Dion's stepfather:

DION'S STEPFATHER: I've had a gut full of it. Don't raise your eyebrows. I'll raise them for you. I'll put them over the back of your head.

Dion's mother says she's been complaining to the police about the boys for nearly three years. They drive around drunk, without a licence. They buy alcohol although too young to do so legally. Dion disputes this technicality. Rod decides it's time to return to the key issue of personal responsibility, within the framework of his individualist-rationalist world view. He soon finds an ally:

YOUTH WORKER: What I'm saying is really, they are very special people - because I believe everybody is, in reality. What they are doing is extremely unacceptable.

DION'S MOTHER: That's right. That is so true.

YOUTH WORKER: That's the difference. The only one that has the power to bring about the change is...

DION'S MOTHER: Themselves.

YOUTH WORKER: The individual!

Rod and Dion's stepfather discuss problems of discipline and democracy. The coordinator suggests that some of their concrete proposals might form part of an agreement arising from the conference. One of the enduring problems for Chris, Dion and their circle of friends is a woman who seems to offer them free lodgings. Her name has come up in several other conferences. Chris's mother says he's broken that association:

CHRIS'S MOTHER: He's out of that and back home.

DION'S MOTHER: Well, I'm glad youse are, because I tried to tell youse ages ago, youse kids, and you won't listen. I'm her age. I had it out with her myself. She has all the young kids up there, and that's not right. They've got homes of their own to go to, parents that sit up all night worrying. You just don't realise.

CHRIS'S MOTHER: It's a nightmare when you ring somewhere and you're blocked by somebody else...

DION'S MOTHER: That is so true!

CHRIS'S MOTHER: ...from getting your own kids.

DION'S MOTHER: I've had it. I have had it with the government. I went down to see you one day. They said, "Have you got something to do..."

Dion disputes some minor details. Others enter the dispute. There is an argument about who attends the Police and Citizens' Youth Club. The coordinator decides to remind participants of their reasons for being at the conference:

COORDINATOR: Can I make a point here? Regardless of how good or bad individuals are, ultimately Dion and Chris make decisions. None of these people were round the other night. In fact, the only people there were Chris and Dion. Chris and Dion decided to do something that was totally inappropriate. I understand what you are saying about unacceptable influences and all of that, but at the end of the day, if Dion doesn't want to change anything, he won't.[...] The argument was that you should have been before the court. I'm pleased that it didn't happen that way, because I actually happen to like you Dion, okay? I hate what you are doing. I'm like your Mum, your Dad, Rod, like everyone. We are trying to work out what way we can assist you to help yourself; that 's the difference. If you don't want it, if you want to cop out, that's fine. Everyone of us at some stage have got to have some sort of boundaries. We can't live in an organised world unless we have some sort of boundaries that govern what we can and cannot do.

Chris's brother suggests that the general situation has taken a turn for the better. He says that Chris, Dion and their circle of friends are trying to cut their alcohol consumption. They are offering each other support. The brothers are trying to encourage Chris and Dion to spend less time together. Rod makes a long speech about family dysfunction and the setting of positive goals. The coordinator feels obliged to mention personal responsibilities again. At the end of the day, he reminds participants, parents and guardians continue to be hurt. But back to the victims. What did they want out of today. There was the cost of replacing the window. Their money and torch had been replaced. What else did they want. Barry answers first:

I wanted basically to find out who broke into the car, why, and again, just getting back to why we made the long trip up here was basically that maybe it would change something in these guys' lives, so they actually stopped and thought what the hell they were doing. Because maybe one day, as I said, it might happen to them. That was basically it. Might stop them from doing it to someone else.

Chris is asked whether he would like to say anything to Diane and Barry:

Yes. Although there was lots of things going on at the time, I don't think what we did really is any excuse, and we really are sorry we broke into the car. That's about it.

Dion is similarly sorry. He says he caused a lot of the arguments at home too. Frank, from the Police and Citizens Youth Club, takes this as his cue to talk about personal responsibility. He's clearly upset that Dion has continued to treat himself and others with contempt:

FRANK: When you go home tonight, stand in front of the mirror and have a yarn to that other person, and just see if that person is totally happy with what they are doing, because the reality is, if you can convince that person in the mirror that your offending behaviour is acceptable, you might just look in your pocket, because in your pocket you have the key to the gates of the detention centre, and you yourself will unlock those gates and put yourself in, nobody else...

It is quite a long speech, and quite eloquent, too. Whether this is an appropriate setting for its delivery is another matter. It certainly ends with a powerful flourish:

...You can think this is a load of bullshit, but the reality is there are only two people responsible for what happened that night. You can't blame your parents, you can't blame the schools, you can't blame the coppers, you can't blame anybody. You blame Dion and you blame Chris. Okay? That's it. Full stop.

In fact, that's not quite it. Both Chris and Dion are asked, as part of the agreement, to attend a program at the Police and Citizens Youth Club. This is a last resort. Their behaviour has been a continuing source of anguish for their parents, and the victims of their various offences. They each owe thirty dollars to the victims, and this is paid - with further apologies. They accept the other terms of the agreement. Dion's mother has the last word, before the session is closed:

DION'S MOTHER: You know, we might seem hard to you Dion, but I used to do a lot of things when I was your age, and you know, I used to drink under age and things like that, but we never, ever hurt anyone in what we done, and youse kids just seem to hurt other people. We always went home...

CASE 5: BREAK, ENTER AND STEAL

One of the offenders was well known to the victims in this case. The continuing inappropriate behaviour of the other offender had caused his family great concern. Accordingly, they were soon to take him back to their home count in order to place him in what they considered to be a more disciplined environment.

After a short introduction, the first of the two explains the circumstances surrounding the incident:

Me and Ahmed went to school and we went up to the old house where I used to live and we were walking back down. I went over to Mrs O'Reilly's house and Mr O'Reilly's house and I knocked on the door and he goes, "Not home". Then he went around the back and opened the gate and saw the back door open and then he goes, "Dale, come in!". He was in the side and I walked in after him and he came back out with....and he ran off. Then I just walked off after him.

Dale says he then went off to school. Yes, they had both gone into the house, but he had then gone to school. Only later had he gone into town, assuming Ahmed would be there selling the jewellery they had taken from the O'Reilly's house. So what is Ahmed's version of events. It is somewhat more detailed than Dale's version - and conflicts with it:

Me and Dale got off the bus and Dale said, "I'm going to ask someone to lend me the money", and he went to Mr O'Reilly's house and he knocked on the door and no-one answered and then he said, "Let's see if the back door is open". We both went into the backyard and the door was open. He went in and I said, "I am not going in". I went to the park. He went in the house and I was waiting in the park, and he came out and he said, "I have got some jewellery and some ice cream", and he gave me the jewellery, and we both went to town. And we tried to sell the jewellery.

Ahmed didn't know the O'Reilly's, did he? No, he didn't. Then Mr O'Reilly asks Ahmed a question. Did he say the back door wide open? And yes, he did. They discuss the technical issue of the state of the door:

Because James - you know our son? - he was in bed, because he'd been in bed for three days with the flu. I went to work that morning and closed the back door. I didn't lock it. I did lock the front door. You rung the door bell, didn't you?

The coordinator asks Dale what he feels about being down here today, and who this has affected. And Ahmed - why was it that he had not been keen to go into the house?:

Because I used to do this...and I got caught. After that I didn't do it any more. He went into the house. He came back out and got some ice cream and some jewellery. Then we walked to town together. He gave me some jewellery. Then he gave it to me and I tried to sell it. And after that I don't know what he did then. I met my Mum at town.

COORDINATOR: Did you tell your Mum?

AHMED: No.

COORDINATOR: Why?

AHMED: Because she would think that I stole it.

COORDINATOR: Which would have been pretty right wouldn't it?

AHMED: Yes.

So how does Ahmed feel about being here tonight and meeting the victims? He doesn't know. How do the victims feel? Mrs O'Reilly offers her version:

I didn't know much about it really until the policeman came and said to me, "Do you own this watch and this jewellery?". I said, "Oh dear, I do". I didn't miss it really. But I knew there was somebody in the house because the drawers were open and James must have been...he was home with the flu. He was sleeping. I said, "James, did you hear anybody in the house?", and he said, "I thought I heard somebody, Mum, I thought I heard somebody". But anyway, I didn't miss anything until the police came and said "Do you own this jewellery?". And I said, "Oh, yeah, that's my watch!". I didn't miss it until then.

So she hadn't noticed that anything had been taken. But was she upset when she found out?:

MRS O'REILLY: Well, watches are handy to have because I would have...I wear it to work and I missed it when I went to Mass. I would have missed it going to work and that and putting it on at the weekend. Other than that, I wouldn't have missed it, probably because I just noticed it was missing.

Mr O'Reilly's story is much the same. When the goods were returned, he and his wife were most upset to find out who was responsible:

We probably realised somebody had been there. I got the shock of my life when I found out who one of the boys was, in fact...

COORDINATOR: I bet you were disappointed.

MR O'REILLY: Yes, very disappointed in the boy.

COORDINATOR: Because Pam had given him biscuits?

MRS O'REILLY: Yeah. They are good little friends of ours.

MR O'REILLY: Yes, we have been, you know...I have played cricket with Tom [Dale's father] for years. For quite a few years we played indoor cricket in the same team. I have nothing against them. It was just a bit of a let down. The boys used to come there and Pam used to give them biscuits or we might give them fifty cents if he wanted to go and buy a book. Would that be right, Dale?

Dale agrees. Mrs O'Reilly emphasises that they are upset rather than angry. But Dale's mother and father are angry. Dale hadn't told them it was the O'Reilly's house. His answer to the question why is inaudible. Was Ahmed's brother aware of what had happened? How much has their mother been told?:

The first day my mother heard about it, she didn't exactly know what was going on when the police were talking to her. She kept on asking him but he wouldn't tell her properly because he is trying to protect himself. Even until now I didn't know what was going on, didn't know why he had to come here. I was really embarrassed to see these people like this. But we were puzzled ourselves.

Ahmed's mother had chosen not to come. Ahmed's brother explains how disappointed his mother is, and how they have tried to make his younger brother understand what others feel when he steals from them. So will that go in one ear and out the other, asks the coordinator.

I don't know. My parents, only my mother is here. Because of what he's doing here we are going to take him overseas and try to put him into a school where he will be stable and try to get something done..

The coordinator asks the victims what they would like to see come out of tonight's conference. Mr O'Reilly replies first:

All we want is an apology, that they are very sorry they went in the house. We don't want them to come back again. If they do come back, they can always come to the front door and knock when somebody is home. We will always talk to you, Dale. We are not going to treat you like an outcast. If you come to the house and you ring the door bell, if we are home by all means but don't go around the back and try and do the same thing again. You can come here. Same with your brother. If you come past, if there is somebody home, we will always say "G'day" to you. Don't try and violate other people's property. We have given you biscuits. You had your Halloween night. We gave you treats. It's been good...

Dale's father is angry. It's embarrassing to be here. It is not right, he says, that something like this has happened to people he knows. The O'Reilly's seek to calm him:

MRS O'REILLY: It is not the end of the world.

MR O'REILLY: We will always be friends. Don't completely take it out on the boy. Friendship is a bit more than that. I ask you just as friends, right. I know everybody is going through trauma. So don't...he's going all right. I know how you feel yourself. I just want to make sure we all end up happy, right. It is a bit of a bummer.

The coordinator asks Ahmed's brother how he feels:

It is humiliating being here. My brother in your house without your permission and touching all your belongings. I can only apologise on behalf of him.

MR O'REILLY: That's alright. We are here to help.

COORDINATOR: This will wrap it up. Basically, what I will do, I have a form which says - it is just an agreement form - basically, it says that you have agreed to a personal apology and that's all there is to it. There is no compensation sought. This finishes the matter. Fellas, if you're doing it tough and you want to have a yarn, then come and see us. Not too many people that can have their house broken into and their property taken can still say to you, "Come and knock on the front door, we will give you a biscuit".

MR O'REILLY: If we are home, yeah, for sure.

The agreement is signed, and the coordinator promises to send copies to each of the participants. This concludes the conference.

CASE 6: POSSESS CANNABIS

This is one of three cases among the fourteen presented here which involves possession of cannabis. This is an unusually high proportion. During the period covered by this study, less than one official caution in thirty was for possession of cannabis. The proportion of these case studies dealing with possession of cannabis is, in contrast, greater than one in five. That is simply the luck of the draw with a randomly chosen small sample. These cases are, nevertheless, of considerable interest. They raise several ethical issues. Possession of cannabis for personal use is a victimless or consensual crime. There has been considerable debate among those involved with the effective cautioning program about the merits of addressing the issue of illegal substance possession in a family group conference. Terry O'Connell's position in the debate has been that cannabis use is currently illegal in New South Wales, and whether or not police agree with that law, they are required to acknowledge it. Furthermore, whether or not people are significantly harmed by using *cannabis sativa*, they are certainly harmed by current official responses to its use. Since the practice of family conferencing is guided by a philosophy of minimising harm, dealing with possession in a conference has seemed appropriate. Accordingly, the coordinator's introduction to this case included the following explanation:

This is an unusual one in the sense that the whole concept behind this is to bring offenders and victims together, as a diversion from the court system, and we are talking about doing this with young offenders under eighteen years of age. On this occasion, we

have a young offender. People would argue that we haven't got a victim. I disagree with that, and you will start to see the reason why. I guess what we are here tonight about is to look at the implications of what Richard did. We are dealing with his behaviour, which was unacceptable, not whether Richard is a good or bad guy. I suspect he's probably not a bad guy. It is very important to concentrate on that, and that's where the distinction is made.

The coordinator introduces participants, who include a colleague from the Police and Citizens Youth Club. The latter has a particular interest in the problem of substance abuse, and that interest reveals itself early. Richard has begun to explain that he had procured the ganja in the big city, but that this was the first time he had used it. The coordinator's colleague interjects:

PC: Curiosity killed the cat. When I was a kid it used to be getting behind the toilets, smoking a cigarette.

COORDINATOR: I never did anything wrong when I was a kid. Tell me, what did you think of it?

RICHARD: Not much. Not much at all.

COORDINATOR: How did you feel when the police came along.

RICHARD: Didn't feel much really. Just...I didn't worry.

COORDINATOR: Since then, what have you thought about it?

RICHARD: Just thought to keep away from it, because I know some people that do it, and I just stay away from it.

COORDINATOR: Have you worked out who this incident has actually affected?

RICHARD: Me and my parents.

So had he thought much about coming down here tonight? Not really. But his mother had:

Well, when I got that call from that policeman, I nearly died. My legs all went to jelly.

COORDINATOR: Did it surprise you?

MOTHER: Sure did.

COORDINATOR: Why was that?

MOTHER: Well, he sat down and told me that he'd never touched the stuff.

COORDINATOR: What sort of kid is he?

MOTHER: He's a good kid, really. Can't fault him, really good kid.

COORDINATOR: What did Dad think?

FATHER: Idiot!

Richard's sister offers a response that sits half way between her mother's concern and her father's anger:

I didn't believe it. I thought it's just a joke. I was in Queensland and I came back and someone told me and I just went, "Yeah, yeah, right, sure!" - couldn't believe it.

Richard's father says he's seen too many consequences of drug abuse, and he has made his feelings very clear to Richard. The coordinator suggests that the incident should be kept in perspective, it's not as if Richard has actually attacked anyone, and he clearly has the support of those closest to him. Perhaps the investigating officer could provide some official perspective? He doesn't have anything to say, so he's asked whether the evasive behaviour of Richard and his friends was unusual.

It's not that unusual, no, although they'd obviously been caught out, so you think someone would own up along the line. I don't know whether Richard took the blame for the rest of them or not. It looked that way. Three others in the car at the time.

An interesting point. Have the others thanked him since? They have not. The coordinator asks the investigating officer another general question:

Do you find much of this around?

INVESTIGATING OFFICER: I suppose it's fairly common these days amongst the younger generation in particular.

COORDINATOR: Some would argue that it's a health issue rather than a police issue.

Many would agree. However, the coordinator potentially confuses that very issue by asking his colleague, who does treat substance abuse as a health issue, to give a personal perspective on the matter. Before this, however, the coordinator makes it clear that, for official purposes, the conference is treated as a caution. Richard will not acquire a criminal record. However, the coordinator's colleague is determined that Richard will acquire a knowledge of the psychotropic aspects of cannabis:

I just want you to focus on the fact - if you think it's hard to give up nicotine, which is a pretty powerful drug, the drug that's actually in marijuana - very, very long, shortened down name is THC - that I'll give you a pamphlet on, no doubt you've seen them - it is seven times more addictive, and four times more harmful than nicotine. People will say it's a recreational drug, just a party drug. You sit in the car with the windows up and everybody is using drugs, whether they are smoking it themselves, or getting it in passively through their nose, or whatever, but I know a bloke well who not long ago buried his son, and he said that whenever we got the opportunity to talk with young people, we should read them a little poem.

Whether to honour the promise to his friend, to deal with his own sadness and anger about what he's seen over the years, or because he thinks he's doing Richard a favour - for whatever reason, the coordinator's colleague reads the poem. Then he tells the story of a young woman who turned to prostitution in order to support a heroin habit. He makes the general link between the need for money to buy illegal drugs and the rates of theft, burglary and assault in the inner cities. So Richard and his friends, the argument goes, have inadvertently become part of a much wider problem:

Like you guys now have to make a decision, the people in your generation have to make a decision what sort of life and world do you want to leave to your kids. If you want people to grow up in a crime-ridden, drug-ridden world, that's fine, you make that decision and you stick by it, but sure as hell I don't want my grand kids to grow up in that same world, okay? Drugs, I've got to be honest with you - it really pisses me off...

The coordinator tries to restore the local perspective on this business, which his colleague has sought to replace with a global perspective. He asks Richard if there's anything else he'd like to say. There isn't, but his parents make a final comment. His mother emphasises her support:

COORDINATOR: Mum want to say anything?

MOTHER: I hope he doesn't do it again, that's all.

COORDINATOR: Dad?

FATHER: He knows what will happen from me if he does. I told him I'll back him for anything but drugs. No way will I back anybody that has anything to do with drugs.

The coordinator emphasises the support that has been shown for Richard. A "contract" is signed between him and "the victims" - his family. The coordinator then asks that participants put the experience behind them and that Richard get on with a difficult year in school. Everybody is thanked for their attendance, and the conference concludes.

CASE 7: ASSAULT

This was a potentially difficult case. Both victim and offender were fortunate that the incident had not produced more serious physical injuries. Certainly, it had drawn a strong bureaucratic response. The offender was expelled from school under the terms of a ruling from the Minister for Education that had come into force on the day prior to the incident.¹ As a result of this ruling, all discretion to decide on the educational future of the offender had been removed from the school principal, since the incident involved a weapon - in the form of a piece of wood. The issues of concern between victim and offender were resolved at the conference. However, the educational-bureaucratic issues arising from the incident remained unresolved six months later, and this despite the efforts of conference participants to seek some resolution in that area.

The coordinator begins by emphasising that the victim, the offender and the parents of both were keen to have the issues dealt with by way of family group conference. All the participants are introduced. The introduction continues:

COORDINATOR: I guess what we really need to think about today is what happened and we want to deal with what clearly was inappropriate, that's the behaviour, and not get mixed up on whether or not Jim's a good or a bad kid, because I suspect he's a good kid. I guess

what we've got to discover with Jim today is who's been affected, and just at this point, one of the things that Jim's mum was very keen on was trying to have this matter resolved quickly, and I'm sure I was hearing the same thing from young Robert's family. Jim, just tell us what happened, mate, what led to the incident?

It takes a while to get Jim started. He seems still rather angry, and perhaps somewhat embarrassed. The coordinator asks a few technical questions: Where had they been playing touch football? What time was it? What did he hit Robert with? A picture gradually emerges. So when exactly did Jim hit Robert?:

COORDINATOR: It was ten minutes after you left the footy field, was it?

JIM: Yeah, or something like that.

COORDINATOR: You were obviously very angry?

JIM: Yeah.

COORDINATOR: Why?

JIM: Because he started me up.

COORDINATOR: What do you think now, do you think it was the way to go or what?

JIM: He was always pushing me around all the time.

¹ "Govt bid to stem school violence", *Sydney Morning Herald* May 11, 1993

This was not the first altercation between the two. The question and answer form continues for a while, until it sounds more like a conversation. There had in fact been two incidents. Jim had clearly been very angry - angry beyond control - at the time. He says he hasn't thought much about the things that make him most angry. Thinking about them, it seems, rekindles his anger. But he remembers going home afterwards:

COORDINATOR: What were you going to do?

JIM: Hit him again.

COORDINATOR: What, so he wouldn't report it?

JIM: I don't know, I was wild.

COORDINATOR: You were wild?

JIM: Yeah.

COORDINATOR: You were suspended, how long for?

JIM: [unclear]

COORDINATOR: What did you do, did you go home? And what did you say to your mum?

JIM: Just told her what happened.

COORDINATOR: So are you still wild?

JIM: No.

Robert's account of the incident flows rather more smoothly than Jim's:

ROBERT: I got the ball, was running up, and Jim kneed me in the stomach, so I grabbed him, threw him away, I run the ball again ... He attempted to tackle me and he never tackled me, and the siren went, and we went up there and someone said that he was going to get me. So I just went up to assembly, and I seen him walk through the canteen and he come back with a stick, and I was just standing up there with a mate, after the assembly, on the seats, and he run towards me and hit me over the head twice, and I turned me head and he missed, hit me in the lower back ... he swung a third time, but I put my arm up and blocked it, and I had a big cut all down there and then he threw the stick and run. So I went and grabbed the stick and Daniel M___ stopped me from going chasing him and then I went, I was looking for him, but couldn't find him, so the deputy principal come out and told me to go down the office, and I went down the office, and sat in there - you know, in the office - and Jim come in with broom stick and tried to hit me again, but some of me friends held him back and I just sat down, and that's about it. Oh yeah, I went back to class, had a headache and the bell went, and I was walking down to the last period, then I just collapsed and went to hospital.

The incident left him quite unwell. He was concussed and had to wear a neck brace briefly. Jim says he hit Robert only once, and he didn't know about the cuts on the arms. Richard's father was very upset by the whole affair:

FATHER: I was upset, because what they said at the hospital, like if it had have been a little bit higher, or a little bit lower, like you're looking at, it could have killed him. If it fractured the skull, it could have made him a paraplegic. They took about thirty x-rays of the kid.

ROBERT: If it had have been lower, about that much lower, it would have broken me neck.

FATHER: It's only a matter of inches you're talking about, and that's, you know, I wasn't angry at two kids, you know, having a go at each other. I understand that goes

on all the time. It's just with bits of wood, and stuff like that, it's not on, you know. I wouldn't expect this bloke...It could have been really, you know, a sick episode.

COORDINATOR: You were worried too, weren't you?

MOTHER: Sure was, I was worried when the ambulance came, they had him in a neck brace and on a stretcher, and he could hardly talk.

COORDINATOR: Had you had a run in with Jim before?

ROBERT: Yes.

COORDINATOR: What was that over?

ROBERT: Just gets turkey sometimes.

COORDINATOR: What do you mean by being turkey?

ROBERT: Makes smart remarks.

COORDINATOR: What, gives you a mouthful, did he?

ROBERT: Yes.

The coordinator ascertains that Robert is one year ahead of Jim at school. Jim confirms this. Back to Robert:

COORDINATOR: Did you know he was really angry, after the football game?

ROBERT: Not really, just walked off laughing.

COORDINATOR: Kate, you were in the canteen?

KATE: Yeah, I didn't see it happen, only Diane came over and said that Robert had been in a fight and that he was standing at the tuckshop. I just said to her, "Just keep an eye on him", when he come back to the next class, because he had been hit on the head. That's when she went and checked up on him in the next class, came running up and said "Mum, quick, Robert's fallen down". That's when I just went down, we caught Mr J____, he actually came up, and they called the ambulance. These boys were...I think, you actually seen it, didn't you - the fight? So I actually didn't see it happen, I only went when Robert collapsed down, Diane went and checked up on him.

The coordinator asks Kate's daughter, Diane, about her perception of the incident. Yes, she was very upset by it. She describes seeing Robert on the ground after he had collapsed with concussion. A friend of Kate's - who describes herself as "a friend of all of them", agrees that the incident was upsetting, and explains why:

JILL: Yes, it is. Kids fight every day of the week, but, you know, you can't get batons and them sort of things and hit people ...

Several of the boys who had been involved in the football match give their version of events. They were all more concerned than angry. The coordinator asks Jim's mother how she felt:

JENNY: I was angry at first...suspensions...and there he was walking in the door again saying "I'm suspended again", first thing, like I just said, "Not again Jim", and he was crying and Lila is there trying to explain to me and - or whatever his name is, or something like that anyhow - and he come in and explained to me what happened and I went to see how Robert was ... in the state Robert was. I've never seen Robert before, I've never even - I've heard the boys talk about him, because they're playing football together... just boys talk. When he settled down, I sort of found out the full story, what

had happened. He told me he picked up the wood. It was the first time I've known him to pick up anything, he's always in fights, and that sort of thing, but, like I said, he's no angel, but I was very concerned about Robert and Jim, because Jim's looking at expulsion from school, and I still haven't heard nothing about that yet. I'm glad Robert's okay, but...Jim, too. Like there's nothing much I can do about it at the moment...Anyway, and where this school business is concerned, it just happened, and him and Robert clash every time they run into each other. It's already gotten out of hand ... I understood they had just had a punch up, that's just natural ...

Jenny has been surprised to hear that Jim tried twice to attack Robert. Her story also gives the lie to Jim's claim that he hadn't thought about the incident. He clearly had, and it had upset him:

COORDINATOR: When you got home. So you had already thought a lot about it, hadn't you?

JIM: Yes. ... Avoiding him.

JENNY: He was, I don't know whether it was just because he was too angry or what, he realised what he had done, I'm not sure, because I can't work him out myself sometimes, but I know he was upset.

Jim is upset for several reasons. One is that this is not the first time he's been suspended from school. The ramifications now are considerable:

JENNY: I'm still waiting to hear from the minister. I don't even know if he'll be allowed back to school or not, and that's not only just here, that's any school in New South Wales, he's looking at expulsion.

COORDINATOR: Is this the first time he's been suspended?

JENNY: No ... something happened at school before.

COORDINATOR: He was suspended?

JENNY: Yeah. He had been suspended a couple of times in F_____, but it was not the same...just fighting after school, but because he was still in school uniform, he was automatically suspended.

The coordinator discusses the issues with Jim. He likes school, although he's been struggling. It doesn't make matters easier when several weeks of school are missed. What does Robert think about the incident. Does he think Jim is actually sorry - as Jim has just suggested he is? Robert thinks so, yes. And his father?:

FATHER: Yeah, I think that's fair enough, as long as the both of them realise that, you know, I really hope that Jim gets back to school, I do, fair dinkum, that they can both get their act together, and what have you, and not have to - as long as they can have a game of footy without worrying about what other kids say to youse, and things like that, you know, if you do come together again. You've got to think of yourselves and each other, and your families, before anyone else eggs you on, mate, you know, just take it from there.

Jim's mother agrees, and she and Robert's father discuss the issues with civility. Robert's mother agrees. She just wants them all to get on with each other. Robert's

father would like to see the two of them put any animosity behind them. But the problem of Jim's expulsion from school remains:

COORDINATOR: What about Robert, what about Jim and school? What are you doing with this?

JENNY: Waiting for a letter from the minister.

COORDINATOR: From the minister?

JENNY: Minister for Education.

FATHER: I didn't know anything about that. I knew Jim had been suspended, but I didn't know anything about...

JENNY: ... Expulsion, automatic expulsion. Barry's ...

FATHER: Yeah, I heard that on the news, it's only really recent, too, isn't it ...

JENNY: They come out the day before Jim and Robert actually...

COORDINATOR: I wonder whether or not you might like to go with Jim's mum, actually go around to the principal about this matter?

Robert's parents are prepared to do that. But, as Jim's mother reminds those present, the final word now rests with the Minister. Robert's father asks Robert if he finds it acceptable that his parents approach the school Principal on this issue. He does. Jim's mother is bemused by the officialdom. Her sense of helplessness encourages cooperation from other participants:

JENNY: Of course, if there's so much violence in the school...Like the law was there all the time, I was told, it's just now they're being a lot stronger with kids because there's too much ... mostly in Sydney, the outer suburbs, but it's enforced in schools in New South Wales now. There's nothing much I could do about it.

FATHER: I would be willing to do that, I'll contact Mr D_____ tomorrow, yeah.

JENNY: And I would like to see Robert and Jim walk out here and shake hands too, if that's possible.

The coordinator suggests that they might do so now, if they want to. Jim and Robert stand and meet each other in the centre of the circle of participants. They shake hands. Jim says he's very sorry about what has happened. Robert's father says he will do what he can to help get Jim back to school:

JENNY: And I would like to say sorry to Robert's parents for the trouble that he had at school.

FATHER: That's okay, kids will be kids.

JENNY: I really understand how you feel, because I was upset myself about it.

FATHER: Were you down at the hospital that day it happened?

JENNY: Well, I tried to call.

FATHER: I thought someone did go down, somebody said that you inquired or something.

JENNY: Yeah, I tried to get through, but there was some trouble. I just left ...

FATHER: Appreciate that anyway, thanks.

The coordinator asks if anybody else would like to say something. Kate, who works at the tuckshop, offers some advice on resolving conflict. Jim's mother agrees:

JENNY: You've got to learn to solve an argument, you use your mouth.
KATE: Yes, use your mouth, keep your fists and everything else to yourself.
COORDINATOR: The other thing you've got to learn - learn to tackle better!

Robert's father laughs, but agrees. They know they're not supposed to tackle during lunchtime football games. Jim's mother reminds them that that is no excuse for her son's behaviour. The coordinator then suggests that they might finalise proceedings. Part of the agreement involves arranging to visit the Principal. Jim's mother notes his absence:

JENNY: He probably would like to be informed of what is happening.
FATHER: If he wants to see us both, we can get in touch.
JACKIE: I thought he might have come actually. He was talking about it.
FATHER: Was he?
JACKIE: I wasn't sure, but I thought he might have come.
FATHER: He might have been tied up.
COORDINATOR: I actually didn't get in touch with him.
JENNY: Being the long weekend too, he could have had plans to go away.
FATHER: Most people do.
JENNY: Not like us, staying home.
FATHER: Hanging around the police stations!
COORDINATOR: All right, so more or less well that does finalise it, okay. Just the notation made, the fact that you got a caution, you know, you haven't got a record, as such. If you want a hand at any stage, drop in to see us, okay?
JIM: Yeah.

COORDINATOR: I'll give you something to flog, a punching bag or something, okay?
But yeah, that sort of finalises it, okay?
JIM: Yeah, that's fine.
COORDINATOR: Thank you for coming, for all your support. You boys pass the word out that touch is touch - at least for the first three minutes anyhow.

The conference concludes with the interpersonal issues resolved, but the bureaucratic problems yet to be fully addressed. In retrospect, the conference provided a valuable lesson. The Principal, it turned out, felt that he should have been invited to the conference. As a victim of circumstances arising from the incident, he should have been there for personal reasons first. He was understandably angered and saddened by what had happened. Secondly, in his professional capacity, he may also have been able to help resolve the remaining bureaucratic problems.

CASE 8: STEALING (FOUR COUNTS)

This case provides a good example of how honest a group of three boys can be when given an appropriate forum in which to discuss the consequences of their behaviour. It also provides another illustration of the trauma experienced when a family member goes missing or is in trouble with the law. The circumstances surrounding the theft at issue were rather complicated. Nevertheless, the focus on the harm caused to the victim of the theft was not lost.

The coordinator introduces the participants, reminds people that they are here to consider an act of unacceptable behaviour, and asks the boys to tell their story:

GREG: Andrew come up to me and said, "Oh, I'm not going to school today" and said we should come up with him as well and then he ... Andrew said, "We'll wag it" and he goes, "Do you want to come?" and I go, "Oh, yeah, I suppose" and then I went with them and we just stayed near French's Field, near there, and stayed there for about an hour and we seen some clothes on some clothes lines and Andrew went in and grabbed them while we ran away, we think, and we went in these bushes and put them in our bags and then we went towards down town...we went towards down town and went - no, yeah - we went to this other house where, near a church, but it wasn't a church - it was kind of like a church, but it wasn't - and there was a house next door to it and Andrew jumped over that fence and got those clothes, too, and then we went down towards down town.

Greg continues with his story when asked what happened next. Both Sam and Simon add some details. The fourth member of their group is not there to elaborate. The coordinator asks where he is:

GREG: He's in a remand home - a remand centre.

COORDINATOR: Why? Why is he in a remand centre?

SAM: Because ...

COORDINATOR: Did you like Andrew?

SAM: No.

COORDINATOR: Why?

GREG: I don't know, because he used to pick on us and that all the time and used to bash Simon up and I didn't like it, you know, because me and Simon were friends and O___ used to grab Simon and punch him in the legs and give him dead legs and that.

COORDINATOR: Did you like him?

SAM: No, he's an idiot.

COORDINATOR: So when he said, "Let's go and go to Sydney, let's get a bit of stuff", you three decided that was the way to go?

SAM: Mmm.

They agree that this doesn't make much sense. The coordinator confirms that they'd planned to head to Sydney, and that they had each got around \$25 after breaking into a car:

COORDINATOR: What have you thought about since this, Greg?

GREG: Not to do crimes again.

COORDINATOR: But who has it affected?

GREG: Me and our friends and the person I done it to.

COORDINATOR: I wonder what the other person, how the other person would have felt when she came to her car and found that money was missing. I wonder what she felt. What do you reckon?

GREG: Bad, like, "Who's took my money? What am I going to do?".

COORDINATOR: What about the people who owned the clothes, Sam?

SAM: They wouldn't have felt very happy and they would have been angry and would have been looking for who it was took the clothes.

COORDINATOR: So who has it affected in your life?

SAM: Myself and the victim.

COORDINATOR: And who else? Of course, I know who else it's affected.

SAM: The family, friends.

Simon agrees he has been worried about coming to this conference. Sam says he's been trying to work out why he got involved in the whole affair. Has he worked that out?:

SAM: I just thought it was a big adventure and found it a little stupid and that.

COORDINATOR: What was the most exciting part? Deciding to go to Sydney?

SAM: Yeah, like, just thinking about: we're going to be out there on our own and no-one's going to be sort of like on our backs or anything. It will just be us four, and that's it.

COORDINATOR: So it was like freedom, was it, Greg?

GREG: Kind of thing, yeah.

The coordinator suggests that it might be time to find out what the incident meant to the victim of the theft. Mary-Helen, he emphasises, has come to the conference even though today is a public holiday. She is clearly still upset:

MARY-HELEN: Well, my first reaction was anger and then...because the fact is the money wasn't mine - it was a collection for two people at school that had a baby, so it was not only me involved. It was a few of the other teachers had put in for it and the first thing I had to do was go and tell the boss and explain to him that this money was gone and then I had to feel like I had to find it myself because it's not my money. It's other teachers' money for a present and I felt really angry because it didn't only affect me. We still hadn't bought the presents for the two teachers who have had the babies and including me thinking...the persons who had done it...and they're the consequences that it was affecting other people as well and myself and also my handbag. Probably the main thing was the address book, because then you've got to go backtracking and things like that, and I was thinking, "Not again!". You know, it's very hard to collect addresses. But the main thing was probably the money not being my own and ... I sort of think, "I've lost it ... it's a lost cause!", but as it was other people's, you know, I was responsible that I had to still find that money.

COORDINATOR: How about the thoughts of someone getting in the car?

MARY-HELEN: That was a big thought, too, because the fact is the car could have gone as well and, you know, getting in. I was thinking - I didn't actually think about it until I got home because I had been down to the shops just to get - I was in the shops virtually five to seven minutes - sort of ducked in, had to get a couple of things because I was having people over for tea - and I didn't really think about my handbag because I had to go out to the car and get it and when I went out I was thinking, "Hang on, my handbag's gone", and after a while I was thinking...because the money actually wasn't in a handbag, it was in a calico bag - a school bag. And the next morning it went through my mind...

I got to school and I was thinking there was a calico bag there with the money and I just felt sick because I had to go and tell - well, get the Dutch courage, I suppose - to go and tell the boss and then, I suppose, tell the other teachers involved and also the fact of people getting into the car. I was thinking, I know it was an error on my part, as I ducked in and out to the shop and there I was then and you learn how - you sort of don't put trust in people at all because the fact is I ducked in and out and someone spoke to

me and I don't know if the person - if it was this Andrew O___ - that as I was going into the shop, someone actually, someone said, "Oh, hello. Cold night, isn't it?", and I said, "Oh, yes, cold night" and kept walking into the shop and I was with a couple of other people and then next morning when I realised that money had gone...I suppose my trust in people has really gone down. The thing is, too, looking at these three boys, they're only a little bit older than lots in the school I work in, so there's problems like someone getting into my car and whatever. I suppose the car could have been taken for a joyride and that probably could have been a worse...you know, to replace the car. I felt violated and ...as I said, then had to backtrack and tell people about it - all about it.

She continues with the story of how she was preoccupied with the incident through the next day, how she had reported the matter to the police, how the wallet had been found. The police and the gardener who found it had been very helpful. About \$100 was missing from the bag. Sam says their first expenditure was a cab fare - there were no buses running that time of night. The coordinator turns to Mary-Helen's colleague, Karen, who has come along as a supporter:

COORDINATOR: Karen, you've come today. I guess Mary-Helen was going to find this...I really wanted you to come, anyhow.

KAREN: I couldn't see her doing it by herself. It's scary.

COORDINATOR: She was obviously very upset by it all, was she?

KAREN: She was, yes. It was terrible - an awful thing to happen to you. This takes you by surprise. You don't expect things like that to happen.

COORDINATOR: She was very angry at the time, can you recall that?

KAREN: Yes, she was...

MARY-HELEN: Not that night because the fact is, what had slipped my mind was I knew I had my wallet with me which was the thing...And the next morning as soon as ... driving to school, I had this thought ...and sort of thumped the steering wheel and I thought, "Oh, no!" - a sinking feeling.

Mary-Helen explains that she had the money because it is no longer possible to leave cash on the school premises - the school has been repeatedly broken into. The coordinator turns to Simon's father. What has happened in the family since the incident?:

FATHER: It's sort of been a bit hard. I sort of never expected anything like this from Simon, so it's ... the family ... nephews and nieces. It was just hard to believe when it happened - a few lies ... when he came home he said ... and he said, "What money?" ... In a situation where his lies weren't going to do him much good, to get himself further and further in. But still, I still will never ever have one hundred per cent trust in him again, that's for sure. It's just pretty hard to say that.

That's just the fact. He's got a long time to go before he'll ever prove himself to me. He'll have to just apologise to every one of the victims...for his actions and we're just going to be ... I will finalise that, but how Simon is going to pay me back, we are just not sure about that yet. It's just the shock, that's all. Just, we never expected anything - never expected anything at all.

Simon's mother describes the circumstances of that evening. The family live out of town on a farm. Her friend reminds her that Simon was brought home at half past ten:

It was ... we will just stop and have a rest for a while and then John said, "We will go and see where they were" and he went. It was so amazing ... it was just the relief of the face - a bit of anger at the time, but relief to see them all there and it was ...

We went home and as we walked in the door, next thing: "Take all your clothes off, Simon! - to see if you have any money on you" ... He didn't have no money on him ... I said, "Well, what about the other money?" He said, "That was a lie". I said, "Well, what did you do with it?". He said, "I spent it on tea ... and we sort of sorted it out"...

COORDINATOR: So you were the sort of teeth extractor, weren't you?

FRIEND: Yes...I don't want to go through it again, that's for sure. If I came around and caught him ...

MOTHER: What he did want to run away from was pressure, the sort of the pressure at home, and that's why Simon wanted to run away - pressure. His father gets him to do a bit of work, and he just doesn't want to work, so there's better things in town.

FRIEND: ... And all that sort of stuff and that's what the pressure was for him, just pushing him too hard, he reckons...every weekend, all his mates are running around ...

The coordinator asks Simon's older brother to give his perspective on the evening's entertainment:

COORDINATOR: You were pretty upset with him?

MIKE: Not really.

COORDINATOR: Right. Oh, well, you had it under control. How do you get on with Simon?

MIKE: I don't really know, actually.

COORDINATOR: Just like a normal brother?

MIKE: Yes, but he acts a lot different now than what he used to.

COORDINATOR: In what way?

MIKE: Well, he's changed. Like, he was an idiot before, but he's changed since. Every time I come home, every weekend, just changes.

COORDINATOR: So, changing as you get older?

MIKE: Yeah.

FRIEND: I tell you, I notice Simon said very - they are all so honest. They've been very honest - I think - these three boys, and Simon said he was the one who made the suggestion to go into Sydney. He just said that. That was good.

MOTHER: I think they all went so far and then were all too frightened to do anything. I know Sam was too frightened to come back home.

Sam's mother is asked about her experience that evening. She gives a lengthy description of how she found out about her son having run away, how she had arranged for a car and a search party, and how she had received help from several quarters. She saw more of the town that night than ever before. Sam's brother was out leading the search, his sister was home ready by the phone. It was Sam's brother who found the boys. Sam's mother explains what happened when they all finally made it home in the early hours of the morning:

Then I tried to explain it to Sam, although he was only young, how it felt from my point of view when we were on holiday. We got home and we had our brand new telly and video ripped off and how it felt when people had been through our things, that you feel violated. You feel dirty somehow because people have been through your personal things and I tried to explain to him how that felt and that's how people will feel whose clothes have been pinched, whose money has been pinched and, as I said, we've discussed it a lot. It ended up, he was grounded straight away. I...his father, the

following night, his father was very angry with him and told him that, you know, he's got to pull his head in and act like a responsible person, type of thing, you know, and in coming here today, it felt awful. You know, the thought...I kept thinking, "Oh, God, I wish I didn't have to go there", you know, because it's not a nice feeling at all. I mean, it would have been worse if we had gone to court, but I mean, the thing to come here and, you know, sit with everybody else and knowing how Mary-Helen feels.

COORDINATOR: In what way would it have been worse then for you in court?

MOTHER: I don't know. I have never been to court, except for maintenance, the whole of my life. I don't know. I honestly don't know. I mean, I went to court to get maintenance - child support - and I felt as though I could have jumped up and said, "I'm guilty!" to anything. I found it very intimidating to go to court, but I find this nearly as intimidating as sitting in the courtroom because, I mean, I have never had anything to do with sort of anything like that.

Kate, who is a friend of the family, describes how she drove around that night, playing her part in the search. She suggests that the boys didn't realise what they were getting into:

I'm sure they've got no idea of how dangerous it is, particularly if they were going to go to Sydney. They probably wouldn't have survived two days then and there. It's not a very nice place at all, being on your own, and I don't think they went ahead enough to think about how they were actually going to survive when they got out, but it's very worrying. I sort of feel you worry what's going to happen to them. It's never crossed their mind. It's not very nice, people out there in the real world. You start walking around at night on your own. It's very dangerous. So anyway, I was down there about 6 o'clock and I didn't get home until seven in the morning. I think Sam has learnt a lesson. I think these three here will perhaps all benefit from their misadventure and I think they all have to stop and think what they do to other people, not just to themselves.

KAREN: Poor Mary-Helen, not being her money, I think she probably got that feeling, "Will they think it's me that's done it?".

MARY-HELEN: It was telling the boss and then he said... and I said, "What will I do?", because at that time I didn't know that any of the boys had been caught or anything like that and then, when I got called in in the afternoon and when they said "Yes, they've caught them"... because being a teacher, I was thinking, "Has it been someone I have taught?", you know, because I've been teaching here in Wagga now for about twelve years and through that time you do come to know a lot of people and thinking, you know, you walk down the street and you think, just...and it could have been someone I have taught, not just anything like that, but someone I had taught. I suppose being in the teaching game and being involved with kids, it is interesting ... that people have been affected and it's not just me. Because you do see a lot of children just come from different situations ... and I think this makes it more real than sort of like... Just as a classroom teacher, I know that there is a lot of problems out there and there is a lot of peer pressure, but you have got to be responsible for what you do, and when you do it you have got to face the consequences.

Sam's brother was one of the people affected, and he now describes the search for the boys from his perspective. It is another lengthy - and animated - tale. Another person hurt by their behaviour is Nick, a worker from the refuge where Greg had been staying at the time of the incident. He describes how he and his colleagues felt when they found out about the incident:

To me and all the refuge workers it was just a slap in the face.

Greg's foster mother and her partner have been upset by the whole affair, and wonder whether the worst is now behind them:

It just goes on and on, and everyone gets affected. It was just luck it was your car. To think you can't trust people enough to leave your car open for two minutes!

But Sam's mother defends Greg's behaviour since the incident. She and everyone else had been touched by his honesty. Mary-Helen agrees. She too has been impressed:

The police said the boys were quite honest. They didn't tell stories. They told the truth.

The support for the boys from all present is clear. The coordinator turns to the question of how to deal with the material consequences of their behaviour. How much money is outstanding, and how is it to be repaid. They agree that about \$95 is missing, and they round that up to \$100. Sam has already thought about this:

SAM: I reckon I should earn the money, not me Mum.

COORDINATOR: It's a bad time of year for mowing lawns...

The question of celerity is solved by an agreement whereby Mary-Helen is paid on the spot with money that the boys agree to pay back over time to their parents or guardians. Sam's brother thinks they're probably getting off to lightly. Everyone else seems satisfied with the outcome. Mary-Helen certainly is:

Thankyou. I work with kids, and to come up here...You've got something good about you - and that's not being patronising.

There is a round of apologies. The last word here goes to Greg, who turns to Nick from the refuge with a sheepish grin:

Sorry for slapping you in the face!

Nick accepts the apology, which raises considerable laughter. The coordinator thanks participants, and the conference concludes with people breaking into smaller groups and talking.

CASE 9: POSSESS PROHIBITED DRUG

This is probably the smallest family group conference on record. The issues and outcome are otherwise similar to those in case 6 above. Only Gary, his mother, her partner, and the coordinator are present:

COORDINATOR: From the outset, what we are dealing with are two offences which this State has seen as fairly serious: possess prohibited plant and administer prohibited drug. What we are dealing with...I know we are dealing with what is the inappropriateness of what Gary has done, okay, not whether or not you are good or bad. I suspect your parents have probably got some good stories to tell about what they think, okay?

MOTHER: Some.

The coordinator asks Gary how he came to be wandering around near what turned out to be a small plantation. Gary gives an implausible explanation. The coordinator simply asks him about the technical aspects of drying the lucky find in the microwave. As often seems to be the case, Greg was with two friends at the time, but he is the only one of three to be charged. One of them is technically an adult, the other is not - nor was Gary at the time of the police intervention:

COORDINATOR: Just tell me about how you came under police notice.

GARY: When we got busted?

COORDINATOR: Yeah.

GARY: Well, they come up to the house about some stolen goods or something, and then they just came in and I was in my room, I was asleep, it was about 2:30 in the morning, and then I woke up and there was all these cops around and that, or there was two, and then they come in my room, found the sachet, and just like asked me if it was mine, and I said, "Yeah", and they said, "You're under arrest".

COORDINATOR: What was the worst thing about being busted?

GARY: I don't know, the chance of me going to court and getting fined and that.

COORDINATOR: What did that all mean to you?

GARY: Probably meant me losing my job, if me employers found out about it, and if my friends found out about it, or friends of the family and all that, they would all disown me.

COORDINATOR: What about mum and dad?

GARY: Oh yeah, mum and dad, I thought they'd disown me too.

COORDINATOR: Has that happened?

GARY: No, well they're here.

COORDINATOR: Is that important to you?

GARY: Yeah.

The coordinator asks Gary what he has thought about since the incident. He then asks Gary's parents for their views on the matter. How did Gary's (step)father feel?:

STEPFATHER: Shocked. I find the idea of the plant at ... a bit hard to take, but that's the story.

COORDINATOR: His luck was in that day.

STEPFATHER: That's fair.

COORDINATOR: Who knows, yeah, but I don't think we ought to get hung up on the details.

STEPFATHER: No, no.

COORDINATOR: What was mum's reaction to it?

MOTHER: Got a phone call and I thought, "Oh no, what's he done this time?", and ... went through a bad patch there ...but come out the end.

COORDINATOR: When you say a bad patch?

MOTHER: Oh, we didn't think Gary would ever get to eighteen, is what I mean by a bad patch, I suppose. He's been a challenge to bring up ... I thought he'd come out in the end, I guess, and I thought he had more brains, because I sort of ...it's a fairly stupid thing to do.

Gary's mother describes her concern about him living away from home. How does Gary feel about that? It's all true, he says, but he is coping away from home. He likes it:

COORDINATOR: Do you see mum and dad occasionally?

GARY: Yeah.

MOTHER: When he wants something.

GARY: I've seen them a few times.

COORDINATOR: You still like your mum and dad?

GARY: Yeah.

COORDINATOR: That was without question, you still like your mum and dad?

GARY: Yeah.

MOTHER: I think he's one of the few seventeen or eighteen year olds that greet their parents in the supermarket and wrap his arms around you and place a kiss on your cheek, there's not too many around, so that's nice.

COORDINATOR: Sure sounds nice anyhow. How does dad feel?

STEPFATHER: If tonight results in something positive, then I guess tonight seems to me a positive thing. You can't undo the past, we all make mistakes, but I think what I would be hoping for out of the night is, I guess, some realisation of the seriousness of anti-social things.

MOTHER: I think there is enough legal drugs in this world without dabbling in illegal ones.

The coordinator agrees, and emphasises that no one here wishes to set upon Gary. There was one issue though:

COORDINATOR: What was the story you told me when we first met?

GARY: I can't remember, that was too long ago.

COORDINATOR: Street kid, then?

GARY: That wasn't me, that was Alan, he made that up. It wasn't me.

COORDINATOR: That wasn't a real mean encounter, was it?

GARY: No.

COORDINATOR: I just remember, that tale - the old yarn about the chance happening. I guess the bottom line is you can have a lend of me, and I go home and have my tea, but you are having yourself on, you know. Don't you agree?

GARY: It's the truth.

COORDINATOR: Of course it's the truth, I never doubted it for a minute, I didn't want to get hooked up on the details. What's come out of tonight for you, mate?

GARY: Chance to get it all talked out and stuff.

It's been a good opportunity to discuss a few things with his parents, he says:

COORDINATOR: So seeing your parents is pretty special still, eh?

GARY: Yeah, it is.

COORDINATOR: Maybe you need to be a bit more conscious of that and make a bit more effort. Then again, it's a two-way stream, isn't it. It'd be good to think that out of this tonight there was a little bit more reconciliation, because it's clear there is a few tensions there, even though people have got really high regard for one another.

MOTHER: We've had three goes at this. I've heard more in this night in 15 minutes than I have heard in three visits.

COORDINATOR: Is that right?

GARY: Two goes, three, yeah, three.

COORDINATOR: What we normally do at the end of these sort of conferences is we actually get those involved to enter into undertakings, in other words, they agree to do certain things. There are lots of agreements include community work and repaying victims, all that sort of stuff. I just wonder whether or not one of the conditions might

be to impose a "penalty" on you of having to compulsorily go home and see your parents once a week for the next six months. How does that sound?

GARY: That's fine by me.

COORDINATOR: I know it sounds corny, but would you be happy with that?

GARY: You guys know where I live, but. It's not just a one way stream, I mean, you guys know where I live.

MOTHER: Yeah, but we've invited you around for dinner and you haven't shown up.

GARY: Yeah, well I've either had work or I've been sick, it's not as if I've just sat there and gone, "No, I'm not going to go to mum's tonight".

COORDINATOR: What about dad, what do you think of that?

STEPFATHER: Anything that opens a chain of communication is a good thing.

COORDINATOR: It is no good me coming up with these really wonderful ideas, Gary, if you are not going to feel ... or you don't want to be involved.

GARY: It's just that, like it's fine for me to go home and see Mum and Colin, but they know where I live, it's not just a one way stream.

COORDINATOR: Okay, so I'll come up with a counter-proposition. You go home three weeks and they will come and visit you on the fourth week. How does that sound?

GARY: That's okay.

Gary and his parents engage in a half-serious debate about whether that means coffee or a major meal. Does that arrangement seem fair? Gary thinks it does.

COORDINATOR: I don't think I've heard anything as horrible as someone having a condition imposed where they've got to go and see their mum and dad once a week, and I'm actually going to get you to agree to that.

Gary's mother suggests that he mow a friend's lawn. The coordinator says that's for them to work out. The agreement here is for a weekly visit. He reminds Gary and his parents that this is registered as a caution - there is no criminal record as such. Technical and procedural issues aside, one issue remains:

COORDINATOR: I was going to ask you, do you feel you owe an apology to your parents?

GARY: Yeah.

COORDINATOR: Do you want to do that?

GARY: Sorry.

MOTHER: We love you remember.

COORDINATOR: Well, is there anything else you want to say?

STEPFATHER: I'd like to ask one question, I suppose. If Greg had committed this offence, if it was another month or two - eighteen - what would have been the repercussions of that?

COORDINATOR: It would have been uncomplicated, it would have put him before the court.

GARY: What, charged or something?

COORDINATOR: That's right.

MOTHER: Wouldn't be such a nice penalty.

GARY: Nup.

COORDINATOR: You wouldn't have got to hear what your mum and dad think.

GARY: Yeah, I know.

MOTHER: Communication-wise it happened at the right time.

COORDINATOR: You happy with that?

GARY: Yeah.

There is some final discussion, and an agreement to call back in six months to confirm that all is well. The coordinator thanks the participants, and is thanked in return.

CASE 10: ENTER ENCLOSED LANDS/ATTEMPT STEAL TENNIS NETS

This case involved "corporate" or "institutional" victims. Two young men scaled the fence surrounding the courts at their local tennis clubs and threw nets around. The offence in question was a minor prank that was unlikely to have occurred had the two boys been sober at the time. Representing the club as victims were the secretary and caretaker. Neither of them seemed angry with the offenders who, when asked to explain the circumstances surrounding the incident, began as follows:

STEVE: Do you want the whole night or just what happened?

COORDINATOR: Just a brief summary of what happened during the night.

STEVE: We were watching a video at a friend called Jim's and then we left there and then we went to a party and then after the party we walked across to where there was basically another party but we got there too late. So we were walking home to Joe's and we got down to Bolton Park and we climbed the tennis court fence and we went right in and threw the nets around and when we were jumping out two police grabbed us and arrested us.

COORDINATOR: So Warren, what have you got to add to that?

WARREN: That's about all that happened.

COORDINATOR: So what were you going to do with the nets?

WARREN: We just left them there and we weren't going to do anything with them. We sort of just, like we jumped in and we were running around and there was nets and we threw them around and then we just jumped over the fence and were going to go back to our friend's house.

COORDINATOR: What were you thinking at the time, Steve?

STEVE: I don't really know. Just stupid. I wasn't really knowing what I was doing.

COORDINATOR: Why was that?

STEVE: Because I was under the influence of alcohol.

Warren agrees that they both had had a good deal to drink. The coordinator asks them about the circumstances under which they were more commonly at the club. Both explain how they had played competition grade tennis. But back to the incident - the coordinator asks them a few questions about what fence they climbed, and just what they had planned with the nets. There is a touch of the absurd in what followed:

COORDINATOR: So when the police announced who they were, what happened then?

STEVE: I don't know, just as soon as I hit the ground I just got crash tackled. That was it.

COORDINATOR: By whom?

STEVE: I don't know. A policeman. I don't know who he was.

COORDINATOR: What happened with you?

WARREN: I wasn't sure who it was at first. I thought I was getting mugged. And then I saw the police out on the ground and I just thought that, I don't know, they were going to send us back over to roll the nets back up and put them away and, you know, we were just standing there and they were calling for assistance and stuff.

COORDINATOR: One of them actually sat on you, didn't they? Were you aware that two of the police got hurt, hurt themselves?

STEVE: By jumping on us?

COORDINATOR: Yes, were you aware of that.

STEVE: Yes.

COORDINATOR: There was a female officer twisted her knee. Since this event what's happened in your life, Steve?

STEVE: My social life is sort of restricted, as punishment.

COORDINATOR: What else?

STEVE: That's about it. Just lost a bit of trust.

Warren's story is similar. He is still grounded, and has been unnecessarily reminded of the incident by his peers at school. Had he told them about it?:

WARREN: No, my friend, he was at the...we were going to go to his house - see, I had to go over to his house later that night to pick up my stuff and he knew about it and then it kind of got around. Steve and I didn't want anybody to know. And then by recess on Monday most of our group already knew and they were still trying to get us hassled out a bit. But you know, that doesn't really bother me, just a bit of my own conscience and that, a bit worried that, you know, having a record and stuff because, you know, I want to join the army and that sort of stuff. The first few nights I was a bit worried.

Both Warren and Steve discuss the affect the incident has had on their families. They also express doubt, when asked, that they would accepted back at the tennis club in future. The coordinator asks the club caretaker whether their concerns are valid:

KERRY: Obviously they are two young guys that had been drinking. Drink does a lot of stupid things to you, as you obviously found out. You obviously didn't know what you were doing. Both being tennis players or ex-tennis players you understand...the reason I ask why you jumped the fence, the gate is always open. We have an honesty system there. The nets are there for people to play tennis any time of the day or evening if anyone is down there. Why did you jump the fence, or even go near the fence, when there is no obvious use for them for either of you? As I said, I think you had a great night out that tragically turned to what you did. It is very foolish.

COORDINATOR: How do you feel, Sandra, when you know that there are incidents of - I guess this doesn't quite amount to it, but it could have - damage?

SANDRA: Well, nets are very expensive to replace. They get damaged. They are nearly 200 dollars each. And like Kerry said, it is an honesty system and we leave eight or ten nets out. They are covered in a barbecue area for people to play. And when they are both tennis players, and I have never had an ounce of trouble with their team, they have been excellent, for what, the last three comps, Steve? And I never had to find them players and they are a really good bunch of kids. I think it is just one of those unfortunate things. I hope they learn from it, I really do.

COORDINATOR: Steve's dad, what did you think about all of this?

STEVE'S FATHER: Well I was totally surprised when the police came to the door, because up to that point Steve had behaved very, very well. Throughout his life he has been a very good kid. He's a very sports-minded kid; he likes to get into competition. And he plays Aussie Rules, he plays tennis, he plays indoor cricket, he plays this, he plays that. He loves his sport. And when the police told me that it was the tennis courts I was in a state of shock. I thought, well, that would be the last place I thought he could

get into trouble. And well, you know, the only thing I can put it down to - I know Warren is a nice young fellow, I've seen him over my house a lot of times - and the only thing I can put it down to is that they have had too much to drink and they have just acted completely out of character. I think the merits of each of the lads is in the fact that they are here now and they are quite willing to try to make amends in some way in respect of some labour at the courts or something to make up for what they have done to the courts. Since this incident happened things have changed a lot at home. He comes straight home from school. Before he was getting the later bus and spending a bit of time with his friends. All that's gone. He has got a nice young girlfriend; he can take her out, as long as he comes home at a respectable time. Beer is out; there's just no more beer as long as he stays with me, that's all there is to it. And he has willingly complied with all these directions. So he is back behaving well again. I sincerely hope it doesn't damage his sporting life in Wagga. He loves Wagga and he loves the sport in Wagga and I sincerely hope it doesn't damage his chances of going back to another tennis competition or whatever.

Steve's older brother, Mike, is equally forgiving - albeit from a different perspective:

Being only a couple of years older than Steve I've seen a lot of people do a lot of stupid things around that age and they, first time, start and like to have a few drinks. Without going into detail, I've probably done a few silly things myself. But that's what I put it down to, just a rash action that was out of character, something I just wouldn't expect him to do but something he did and that was pretty...simply just stupid.

Warren's mother agrees that it has been a difficult time for the family. When asked what she thinks of the whole affair, she supports many of the points that have already been made:

The same with Kerry. Warren has excelled at sport and, you know, he's got the same... The keys were taken away from him; he is still grounded. And it is the drinking, the rash things that are said, you know, "You are not allowed to drink at home", virtually, or "Don't start drinking until you are eighteen" and all these things.

There have been repercussions for everybody, she says. People don't realise the trouble that excessive drinking can bring. Warren's father feels much the same way. He is asked what the incident has meant for him:

WARREN'S FATHER: Shock. I echo everything that Kerry says, but I think probably the only good thing that's come out of this, if it could be called a good thing, it shows how close he can come to ruining his whole life in one stupid action. If he did get charged and it went on his record - as he mentioned before, Warren wants to join the army as an army officer - that would never come about. We explained to him he wouldn't be employed by any public body if he had a record. He's got that stigma right through life, the same with Steve, and at this time of life, too, you have to have everything going for you. I think it is showing them how one little incident can ruin your life.

STEVE'S FATHER: Did you say "stigma"?

WARREN'S FATHER: You know, obviously people talk and you read the paper every Monday about people getting charged for different offences and all that and it obviously gets around a small town like Wagga and you have got to live with this. But it has, it's put a bit of a strain on the family, and we couldn't really believe it when we first heard it about the news and then we got rang up - we thought he had been in an accident. We

were called in the police station at 2 o'clock. It was a shock for everybody, I think, the whole family. And also for Tom [Warren's brother], too. It is a valuable lesson for Tom, too, I think.

COORDINATOR: So what do you think, Tom?

TOM: Now I know that, yes, what alcohol can do to people and that. Like I have learned a lesson.

COORDINATOR: I would hate to think you are going to blame the alcohol, though, Tom, at the end of the day. You know, Warren and Steve have got to accept responsibility and, sure, alcohol is a factor. But there really are a lot of positives come out of today, I guess, what we have heard, that not only is it out of character but Warren and Steve are good young kids. I don't think that's in dispute.

At this point, the coordinator explains that there will be no charge recorded against either of the boys. He raises the question of formal apologies.

Warren, Steve, arising out of all of this, how do you think? What do you think needs to be done? Do you think there is an apology needs to be forthcoming?

STEVE: Yes, an apology, and me helping them out or something to make up for the damage we did.

COORDINATOR: So you would like to apologise here to the club?

STEVE: Yes, I would like to apologise to the tennis club.

COORDINATOR: What about you, Warren?

WARREN: Yes, I say I'm very sorry for the stuff that we have done and the time we have taken up and the honour system. I hope we don't wreck it for others, the honour system and stuff, and we can come down some time in our holidays, maybe, and help out somehow.

Both boys also apologise to their parents. Now that they have also raised the issue of some sort of work at the club, in order to make amends, the coordinator asks Kerry whether such work might be available. Yes, says the caretaker, there is plenty of work. Furthermore, this is the school holiday period:

KERRY: And I'd really appreciate your help. It is not a matter that you have to do these things. I'd rather see you down there playing tennis every day than having to work.

Both Warren and Steve would be happy to do some work at the club. They discuss possible times. The coordinator seeks to maintain a sense of proportionality:

COORDINATOR: You know, just in terms of how long, I would hate to see you there in three weeks' time, you know. It is not three weeks' hard labour.

KERRY: No, as I said, it won't be hard labour, Terry. I'd rather see them down there playing tennis.

COORDINATOR: Let's size this in terms of how many hours you would feel comfortable with. What's your suggestion, fellows?

STEVE: What work needs to be done?

KERRY: I could give you twelve months! I've got a couple of picks and shovels down there on Sunday. I'd say a couple of hours would sort you out fairly quick.

WARREN'S FATHER: Warren can work Sunday and Monday, say four hours on the Sunday and four hours on the Monday.

KERRY: Monday, I'd rather him down there on Monday.

COORDINATOR: Is that all right?

WARREN: Yes, Monday.

Work hours are negotiated. The coordinator suggests they have negotiated a longer lunch break than he gets under the terms of his award! Sandra's main concern is that the boys start to play competition tennis again. The coordinator notes that all of this comes at a difficult time of the school year. Finally, does anyone else wish to say something else? Are they happy with the agreement?:

STEVE'S FATHER: That's suitable, yes, no problems, no problems. If I could just say briefly, I'm very happy with the proceedings. I'm very happy that this has eventuated like this rather than the kids being thrown in the children's court and dealt with in that manner.

COORDINATOR: I guess I make this comment. It is not the end of the world. What the boys have done, we don't have to tell them about it, though, they have felt what they have done. But importantly I guess it is to discover what the ramifications are and to provide you people with a forum to deal with lots of those issues. Is there anything you want to say at all?

WARREN'S MOTHER: No, I would just like to reaffirm Warren's apology to the rest of the family. We are really sorry for what's happened to the tennis club and thank you that you have taken your time out in coming too, you know.

STEVE'S FATHER: I think it is great. I've never been involved in this type of thing before but as Kerry said, I think the law gets a little bit out of hand in the children's court with boys that are obviously not bad. I think it could be the opposite to what it was meant to be. You get in there and it is not the best place to ever to be, in any court. I think something like this would teach them more than being subject to the cold courtroom. I don't know whether you have been as a school group or not, but it is not a pleasant place to be - just as an observer without being involved in it. I think it is a credit to Mr O'Connell. I think the boys should thank him for what he's done to them. A great man!

STEVE: Yes, thanks, Mr O'Connell.

WARREN: Thanks, Mr O'Connell.

The coordinator thanks participants for attending. He reminds people about keeping these issues in perspective. Warren's brother didn't feel he was on trial did he? Well, he had felt a bit nervous, but not any more. And Sandra, the club secretary? She has said all she wants to, and just hopes the boys learn from this experience. The coordinator finishes by wishing both boys all the best with their exams later in the year.

CASE 11: MALICIOUS DAMAGE BY FIRE

The two offenders in this case were very young. They displayed the fascination with fire common to many children of their age. Not infrequently, when that fascination is acted out as arson, the victim is an institution. So it was here, with the damage occurring at a building site. The company responsible for work on the site was represented by its local manager.

After the usual introduction, the coordinator asks Tanya to explain what happened. She describes "walking around" with Shane, and then lighting some paper in a building site toilet. There are several confusing points, here. They happened to have a cigarette lighter. They happened to have a tin of insect repellent. But neither had anything in mind. Shane's story is much the same as Tanya's. Two friends of the family join the

proceedings at this point. Tanya continues, after they have been introduced. The coordinator is still confused about the aerosol can:

COORDINATOR: So did you know there were Aerogard cans down there?
SHANE: No, we found it when we were walking.
COORDINATOR: And so what did you do, you actually got the papers in the toilet and...
SHANE: ...with the ...we sprayed some Aerogard on them and then we lit them up with the cigarette lighter.
COORDINATOR: But you lit them in the toilet, didn't you? Did you think about what was likely to happen to you?
TANYA: No.
COORDINATOR: Did you, Shane?
SHANE: No.
COORDINATOR: What happened then? You say you threw some dirt on it.
SHANE: Yes, we threw some dirt on it and it went out and just kept smouldering and we thought it was all right then so we just walked away and kept walking around.
COORDINATOR: And then what happened, Tanya?
TANYA: Nothing, we were just walking around and then the police came.

But what happened in the meantime? Shane says they ran away. The coordinator wonders what frightened them more - the fire or the police. Tanya says she simply didn't know what was happening. Shane was frightened by the police car. But they also saw the fire brigade arriving. Shane explains that he heard a police officer calling out to him. That's when he stopped running:

COORDINATOR: And when you came back, what did you think when you saw the toilet burnt?
SHANE: I was just frightened and wondered what happened.
COORDINATOR: And what was the worst thing for you? What really frightened you more than anything?
SHANE: The fire.
COORDINATOR: Since then, what's happened for you at home? Who has this affected? Tell us a little bit about that, Tanya.
TANYA: I don't go around there much where it happened.
COORDINATOR: And what happened at home? Did you talk about what had happened?
TANYA: Yes, we just talked about how silly it was, lighting fires and that.
COORDINATOR: And who do you think it has affected?
TANYA: The people who own the toilet.
COORDINATOR: And who else?
TANYA: Me, really.
COORDINATOR: And who else?
TANYA: Parents.
COORDINATOR: And who else?
TANYA: I don't know.
COORDINATOR: Friends?
TANYA: Yes.
COORDINATOR: Lots of people. What about you, Shane?
SHANE: When I got home I got in lots and lots of trouble and I just wasn't allowed to do a lot of things after. I was sort of like grounded, and ever since I've been in a lot of trouble, fair bit of trouble.

COORDINATOR: Who do you think it upset and affected?

SHANE: All the people that own the toilets, me and my parents and my brother and all the friends.

COORDINATOR: Have you been telling everyone at school what you did?

SHANE: A few people. Some of my classmates.

COORDINATOR: What did they say?

SHANE: They just didn't care much.

COORDINATOR: But other people here care a lot, don't they? What about you, Tanya. Have you been telling anyone at school about it?

TANYA: Just one person, my close friend.

COORDINATOR: So you probably thought it wasn't the sort of thing you'd talk about at school?

TANYA: No.

COORDINATOR: Why was that?

TANYA: I didn't want everyone to know about it.

Both Tanya and Shane have clearly felt embarrassed by the incident. The coordinator asks the building site manager how the incident affected him and his colleagues:

JIM: It was a big impact. It created a bit of chaos in that we have got an obligation to the company that we hired it to and we guarantee to provide this facility. It was a real pain. And the time that I wasted that I could have used on other things, cost to the company, loss of you know, we hire equipment. That's the way the company makes their money. We lost money, as well as the capital cost, the driver's wages, the use of the vehicles to transport the old one back to the depot to replace it with a new one. You could say it would be at least...And now on top of that I have to do an incident report to the company following insurance claims, phone calls to Sydney. It would be a good, probably, two man days lost, without covering the cost of the equipment.

So yes, he was angry about the wasted time and effort. His wife, Jane, confirms this:

He was annoyed. He was also very concerned because he said with the chemicals that are in the system, that they are lucky that they didn't blow themselves up. You know, it is just thinking ahead. And he was annoyed being called out late at night. Plus I think he was a bit shocked, you know.

JIM: Yes, I didn't expect that they would burn.

JANE: He was quite surprised by it all. He wasn't happy about it, that's for sure. But you know, the danger was what our family sort of discussed more than anything, you know, how silly because of what's in them. They don't work on a water system, there's chemicals, and you just don't know how..I don't even know how they react to it.

Jim explains the production how toxic fumes are produced when fibreglass ignites. The chemicals within the unit are also flammable. Jim and Jane had given a lot of thought to what might have happened. The coordinator asks Tanya's mother how the incident affected her. She too was shocked. For a start, this was quite out of character. She explains how Tanya's older brother - who's away on business - was also shocked. Like so many parents. she had thought that Tanya had been involved in an accident when the police first came to the door. It was the next door neighbour - a good friend of the family's - who had phoned the emergency services:

SARA: Well, I've known the K____ family for about twenty two years, so I've known Tanya all her life, before she was born sort of thing, waiting for the birth, and Tanya as

far as I've been associated - we've been fairly closely associated all her life - has always been a very obedient and polite and well mannered girl. It was a big shock, you know, to find out that she was involved in anything like this.

COORDINATOR: Barbara and Gail, you are also friends?

BARBARA: Yes, been a friend of Mr and Mrs K_____ for about nine years and close to five years and yes, I'm surprised that it's happening to Tanya because I've always known her as a polite, always accompanied by her parents, never allowed out late. It comes as a total shock.

COORDINATOR: And I guess from the outset I talked about dealing with the inappropriate behaviour, and what I am hearing is that this is a surprise, that Tanya is not a bad kid, you know, and...

SARA: What surprises me a little is that she's saying "we". She knows what she did, but she knows what she did was wrong.

COORDINATOR: What about Shane's mum?

SHANE'S MOTHER: I ran the whole gamut of emotions from furious to I was absolutely ropeable - because Mr K_____, we'd actually, I'd just phoned them. I was on the phone wondering where the children were and I think that Mrs K_____ said to me, "There's someone at the door now" and I said, "If it's Shane, would you send him straight home?" and the phone rang again and it was Mrs K_____ saying how... Actually when I first got to the police station I couldn't even speak to Shane, I was so angry with him, I was angry, because I'd heard, or Nick had heard, the fire engine and made some comment and I just sort of dismissed it, I didn't even think, because we can't see precisely from our home, and I guess then when I saw him and his hair was singed ... I think then it sort of...what might have happened came and when we got home we talked about the fact that there was probably methane gas in the toilet and both the kids were very lucky that they weren't injured, if not killed. But it still took me two days to be able to talk to him about...From his head, basically, I wanted to shake him. In fact I did shake him, "What a stupid thing to do" and "Why did you do it?". Of course he didn't have an answer to that. I guess what I wanted was an answer, you know, an ... answer ...So dangerous...

Tanya's mother suggests that it is very difficult to understand why they did it, and Shane's mother agrees. The coordinator asks Shane's father what he thought of the whole affair:

SHANE'S FATHER: It took a lot of restraint to not flog him something chronic, and really, actually very shocked, and I took that different approach. Rather than flogging him, I sat down and tried to explain the real danger of it, how bloody stupid it was. I was always brought up to believe that in the end somebody's got to pay and we went right through the whole system explaining exactly what's happened and I tried to explain to him what Jim said, that it is not just the toilet they destroy but it was the man hours, because I knew there would be all sorts of reports have to be done and a lot of associated work and I sort of really tried to work hard on that with him rather than - if I flogged him it would have made me feel better but I don't think the point would have got across real good, you know. And it took me quite a few days to talk to him after that, you know, have a sane conversation. I said what I wanted to say and then I shut up about it for a couple of days. But I'm very, very surprised, because Shane's a model sort of kid, really. I just couldn't believe it. I won't elaborate on that.

COORDINATOR: What does big brother think about it?

SHANE'S BROTHER: I wasn't shocked.

COORDINATOR: You weren't shocked?

SHANE'S BROTHER: No.

COORDINATOR: Just tell us about that.
SHANE'S BROTHER: He's been a little fire bug.
COORDINATOR: He has, has he?
SHANE'S BROTHER: Not really.
COORDINATOR: He likes fires?
SHANE'S BROTHER: Yes ...
COORDINATOR: So there was really no surprise with Shane, was there, in terms of the lighter?
SHANE'S BROTHER: I'm not surprised with that.

Shane's brother says it was all a bit of a nightmare - thinking of how much worse the incident could have been. He was not as upset as his parents, though. A close family friend gives his perspective on how the incident affected the family. He too suggests the behaviour seemed out of character. Like the others, he is, above all, relieved that no one was injured:

PAUL: I've been a friend of the A_____ family for about eight years and I find it very hard to believe, actually, because I didn't know the full story about it until I came here this evening, and Shane, he always looked after my little fellow and my little bloke is only four years old and to me he was very responsible, a very good kid, but like I say, it shocked me, actually. I can't understand why he would do something like that. But I suppose we've all done something stupid when we were kids and lived to regret it afterwards. He's just lucky he wasn't injured, by the sound of it. Unknown chemicals, those things, you don't know what they'll do.

Sara, the friend of Tanya's family who had phoned the emergency services, is asked what she thinks of Shane:

SARA: Well, I've known him since he was a baby, too, because we live in the same street and Barbara and Ron live around the corner, but I knew Barbara and Ron long before they moved in around the corner, and I've known Shane since he was a baby and as far as I've seen, he's a good kid, you know, there hasn't been a problem with Shane. I think maybe he was trying to impress the girl, you know, to show what a...you know, like a boy trying to impress a girl, "Look what I can do, look at my trick". I'm not sure, but that's just the feeling I had, and I think, you know, they are too young to realise about the chemicals, they just thought they were making a bit of a show how smart they were but they didn't realise the dangers involved.

So what do Tanya and Shane make of all that? Tanya says it was scary that there were chemicals around, and she's sorry for all the people who've been affected. Shane says he doesn't touch lighters any more. Tanya apologises to Jim and Jane. And Shane? He and Tanya respond with remarkable maturity in the negotiations that follow:

SHANE: I'm sorry to the people I've hurt ... I'm not going to do anything like it again and I'm really sorry for my stupid actions and I just don't know what I can do to repay what I've done.
COORDINATOR: What about mum and dad, Shane?
SHANE: Yes, I'm sorry that I was so stupid ...
COORDINATOR: What about the question of compensation?

JIM: I think it is covered by insurance. I've filed a claim through my head office. My head office looks after it from here. As I understand it, it is insured and there will be no further action from my company.

COORDINATOR: What's your view on the issue of compensation? Tanya, do you think you should do something or should repay something?

TANYA: If there's any way I could do it, repay them.

COORDINATOR: From what I can hear, in all of the circumstances it sounds very, very generous on the part of the company, for the shareholders to say it is covered by insurance. I know Shane indicated that he would like to do something and I know Tanya has indicated that. Is there anything at all that the company could, any sort of work at all, opportunities to do a few jobs at all, Jim?

JIM: There's always plenty of work to do down there. I'd have to inquire through my boss just to find out the procedure.

COORDINATOR: How would you feel about that, Shane?

SHANE: Well, I think from my actions that's only fair.

COORDINATOR: And what do mum and dad think about that?

FATHER: Terrific idea.

SHANE'S MOTHER: We feel that he should give something to fully realise the consequences of their actions.

There are several issues to consider now. There may be some problems with supervising work for two young people on a building site. Friends of both families suggest more general community work. And there is also the question of written apologies to the company. Yes, that will be formally agreed to. The parents and friends give some specific examples of community work they have in mind:

SARA: I reckon a letter to the company apologising first, that would be appropriate, too.

COORDINATOR: Has anyone got any ideas?

SHANE'S MOTHER: As far as community service goes?

COORDINATOR: Well, we'll call it that, for the want of another name.

SHANE'S MOTHER: I sort of thought that either as ...doing some work for under-privileged or elderly, or Shane has been involved with the Police Boys Club doing karate down there and maybe sort of, I know that occasionally they want help doing things down there.

SARA: What about old people's homes?

PAUL: ...Down there doing a charity run at the moment with 2WG. They are going up certain streets knocking on doors asking for blankets and things like that.

SHANE: We can do that through the school, too.

PAUL: But to do it with the Smith family themselves, not on a freelance basis.

COORDINATOR: There's a couple of issues. One, we need to be clear prior to leaving here what's expected. The other thing is I'd like to see someone supervise - actually outside the family - and I'm looking at Sara, who is going to take on another role if she's quite agreeable to it. Would you like to look after that?

SARA: Yes, so I've got to organise them to do something?

COORDINATOR: Yes, and I guess what we can do is - let's talk about how many hours.

SARA: See, I thought, too, as we are all in the same community, the Home of Compassion is in our community and maybe there'd be some work Tanya could do there to help them.

BARBARA: Some washing up or...

SARA: Yes, taking the people's afternoon tea around or that sort of thing, or a few little things, or a bit of shopping the old people want done.

COORDINATOR: I was going to put an offer of twelve hours up. How does that sound?

PAUL: I think we should ask the gentleman from [the building company], actually.

COORDINATOR: Absolutely. That's why I put a bid of twelve hours.

JIM: I'd second that. I was just thinking perhaps, you know, I was saying about the equipment and such down there. I work on various Saturday mornings and when I work down there I'm the only person there and there's no one moving around the yard with equipment and such. One Saturday morning if they came in, as I say, there's plenty of tasks around the place, cleaning up and different things there that could be done, and cleaning, washing down some odd equipment and that sort of stuff perhaps could count toward the hours.

The definition of "community" is shifting here. The first proposals for community service involved Shane and Tanya working for the "voluntary and public welfare sector". Now Jim is suggesting that the two might indeed perform some restorative work for the community of people most affected by their actions. Tanya and Shane like this idea of mixed-mode community service:

SHANE: Yes, well I mean old people don't get many visitors and I think that'd be nice for them and that'd be a cool way to pass, like, to do our service and our service to [the building company].

BARBARA: They seem to respond very well ... very young and the very old.

COORDINATOR: I think it is very thoughtful of Shane, eight hours. So you'll do four hours with [the building company]. I wonder, in terms of arranging that...

JIM: 7.30 Saturday week - morning.

The agreement is recorded for participants on the usual form. The coordinator asks whether anybody would like to say something further. Shane's father takes the opportunity:

I'd just like to let Shane realise that - thanks very much - the insurance company have picked up the bill, but the insurance company isn't a bottomless pit and that those costs get passed on down the line and that Jim's insurance input might be affected by it. That's what he's got to think about. And everybody's premium goes up because of stupidity. Whether it is fraud on the part of claimants in motor vehicle accidents or whatever, but in the end the people in the community pay, eventually.

PAUL: Somebody pays.

BARBARA: I think, too, with the doing some community service or whatever, it's not just paying a penalty, it's hoped that the young people will benefit something by it and get more depth to their own character and be more understanding and more thoughtful in themselves.

SARA: And also to make them more responsible towards themselves.

BARBARA: Yes, I think that's the big point of it. I know compensation has a point, too, but I think for them to benefit themselves - for their future life.

That seems like a good point at which to make a concluding speech. But there is still more to be said. Some remaining issues need to be laid to rest:

JANE: Can I just say something to them too, that I work with both of them so nothing from tonight will go out of here at all.

TANYA'S MOTHER: I nearly fell off the chair when you were here.

JANE: But I see them at school, and like I don't want them to feel guilty every time they look at me. Because that's over with once you've done your things, okay?

So Tanya won't be given extra homework? Good, now it may well be time to conclude. The coordinator reads out the terms of the agreement, to ensure that it is acceptable to all participants. Jim agrees to pass it on to senior staff of the building company. Still there is more to be said. Shane's father would like to comment on the process by which they have arrived at this agreement:

SHANE'S FATHER: I believe that this is a fantastic way of doing this sort of thing. Cluttering up the court system is crazy with this sort of misdemeanour. This is a tremendous way. It makes the kids realise what sort of damage that they have done. It's good. I don't think either of them will do it again.

PAUL: I'm sure that this will be the worst thing that they have ever done, I really do.

SHANE'S FATHER: Yes, I know this little bloke has never done anything like this.

COORDINATOR: And I guess it is important to keep it in some sort of context. Whilst the parents and friends are all very shocked that this sort of thing happens, we have all done silly things.

BARBARA: Yes, we live just across and I felt ever so sad when I saw the poor old toilet off on the back of a truck. I thought "Oh God!".

COORDINATOR: You actually felt for the toilet!

Jim and Barbara talk about the sad state of the portable toilet. The coordinator suggests that they are perhaps all fascinated by fire - he certainly is. Shane's mother explains how a young friend of their's was badly burnt in a property fire a year earlier, and that that had affected Shane. The coordinator finalises the agreement with Shane, Tanya, and Jim. The participants break into smaller groups as the conference concludes.

CASE 12: BREAK, ENTER AND STEAL

This was an unusually complicated case, and an unusually long conference. The offender had given several versions of the event, and the exact details were not clear even at the end of the conference. The other alleged offenders were not present, and so could not correct any misrepresentations of their role, nor provide any missing details. The victim, the offender, and their respective supporters were nevertheless satisfied with the outcome of proceedings.

The coordinator begins by asking Alan to explain how he came to be involved in the incident:

Oh, well, I had a group of friends at that time, two other persons, Doug V___ and Dale F___ who were friends of mine. And we were involved with a Squadron leader Col P___ out there, and I don't know the circumstances entirely with...but Doug and Dale were staying with the Squadron Leader, and something went on, and they felt wronged, and they decided to, I suppose, get back at him - and they weren't very good characters anyway. So they kind of broke into the RAAF base on a number of occasions, and as I was their friend I went along with them.

There is some confusion about who had the key to the office that was broken into, and what had since happened to that key. So what exactly was stolen? Here, again, Alan's memory recall seems less than adequate:

ALAN: As far as I know, it's a laptop computer, and a quantity of cash, a typewriter, and various other small items - a white computer sort of thing.

COORDINATOR: Was there an embossing machine?

ALAN: I don't know. As far as...

COORDINATOR: I guess what's made this difficult is that it's taken three occasions on which you were interviewed in relation to this, and we in fact got three different stories. I guess I can understand that in the circumstances we are all a bit reluctant to talk too freely about a lot of things, but why was it that it took three occasions to get a version?

ALAN: I don't know. I was just sort of protecting my friends a bit.

The coordinator makes it clear that there was little point in proceeding if there was any uncertainty that Alan had been involved in the theft. He has now removed that uncertainty - but does he then know what happened to the stolen goods? Well, he's not certain, but he assumes that they are still in Doug's possession. Has Alan not seen him lately?:

ALAN: I've disassociated myself with these two people.

COORDINATOR: What else?

ALAN: Not a great deal. I've been discharged from the Air Force.

COORDINATOR: Under what circumstances was the discharge?

ALAN: Well, I kind of sought discharge on my own request. It was granted.

COORDINATOR: And were you happy out there, or was this a significant factor in it?

ALAN: Mmm.

COORDINATOR: It was. And what else has happened?

You've been concerned about this matter being resolved.

ALAN: I was hoping that the things, like the statements I'd given, at least would be able to resolve it.

Was he hoping that by reporting the offence he would ensure that the others were dealt with? He doesn't know, he hasn't seen them, he hasn't thought about it. Well, has he thought about who owned the property? Yes, he knew that, and was hoping that his two colleagues would be caught with the evidence. The coordinator asks his colleague, Jill, what she made of all this confusion during her investigation. Unfortunately, she says, every statement made seems to contradict the last one. So it has been a frustrating investigation?:

Yes, well, it has, because like Alan's come forward and, you know, you've admitted your involvement in the ones that you've said. And I can't see any reason why you wouldn't tell me about another one, if you owned up to these ones, and yet somebody else has involved you in another one. You know, this is what it was like the whole investigation, so it's...you know, I'm sure there's more than one involved, and at this stage you're the only one that's really come forward with anything, like any admissions.

The coordinator makes clear to Alan that neither he, nor his colleagues, nor the other participants hold Alan solely responsible for what has occurred, but that he has hampered the investigation, and damaged his own credibility by his inconsistency and

evasiveness. That is why the coordinator asked his colleague Jill for her perspective. Now he asks Malcolm, the owner of the stolen computer, for his perspective:

I instruct apprentices. Up until this stage I hadn't instructed Alan's course, but I was going to take part in the bivouac which his course is part of. I got to work, I was informed that the section had been broken into, went to my staff room, noticed that the computer was missing, and that other people then also started noticing things were missing. so we did a thorough check of what was there and what wasn't there to the best of our abilities. We called the civil police in. However, it was left in their hands, and then we proceeded on the bivouac with his course, not knowing who was actually responsible for it.

So during the process of the bivouac I made it known, and everybody else made it known, that it was my computer that was stolen. So Alan was with us in the bush, under a training situation. So, you know, he was well aware who the computer belonged to the right from the onset, right from the first day that it was discovered that it was stolen.

Malcolm explains how he had borrowed the money to pay for the computer, and was still paying it off. It had been stolen some twelve months after he bought it. He says he "kissed it goodbye" when it had not been returned after a week - but it is hard to kiss something goodbye when one is still paying for it. Malcolm's wife, Val, was upset by the incident, and her husband had, indeed, been very angry:

He was, he was very. More so than what I was, because it was something he was using and the children were using. And, you know, it's something...I mean computers are really his job. He loves his computers, and we thought it was pretty safe where it was, because it wasn't insured. I mean, we have got contents insurance, but it didn't cover anything out of the house. And we thought being on the base would have been safe, but it's just one of those things that happened, you know...

I mean, I'm not here to, you know, judge this young man, because, I mean, obviously from what he was saying there was two other people involved as well. And, you know, it's just one of those things. I mean, he's very lucky his parents are behind him to support him as well, and I am just sorry it had to happen. His career is down the drain as well, because for something, you know...I mean, he was obviously in a group. He was...they were all badly influencing each other, and his career paid for it. I am sure his parents are very upset about it too.

But yes, she and her husband were upset, and frustrated. There doesn't seem much they can do to get the computer back, so they don't talk about it. But its absence affects the children's school work. The coordinator asks the children how much they had used the computer. Nadia used it a lot, and misses it. The coordinator now asks Malcolm's colleague, Greg, whether he had had a fair bit to do with Alan. Yes, he says. He explains how the theft had a corrosive effect on people's trust at the base:

Like any RAAF base, rumours fly thick and fast on practically anything.

The coordinator asks Greg to explain just why trust is so important to him and his colleagues:

Well, we in the RAAF - a lot of our lifestyle is based upon trust. Pilots trust us to do our job so they live. If we don't do our job right, they will die in an aircraft. So our

entire work style and lifestyle is developed on trust, trust with the people we work with. And a lot of our operations are based on trust. In other words, we run little shops of things like that, where you buy drinks or pie for smoko later, and we let guys sign it up. We trust them that they will pay it pay day. We are pretty open. Like we don't lock rooms up. If they want to use part of the RAAF equipment to repair their car, we let them do it. I don't know any company that does that.

So a lot of it's based on trust, and when we find their trust is broken, it affects every member in the RAAF. And especially if it's a member that you work closely with, who's in your section, it just destroys the trust, and it takes a lot of time to rebuild that trust again.

Greg goes on to explain how everyone is presented with temptations that are best avoided, and how he felt sorry for Alan when he discovered what he had done. Indeed, he felt so sorry for him that he went out of his way to help him. Greg says he'd like to think that people might do the same for his kids one day, if they need help in the same way. But the help, it seems, was to little avail:

And after Alan admitted what he did, a deal was sort of struck that he'd be kept in the Air Force, and he'd keep his job, and stuff like that. And I went home to my wife - it's one of those rare times in my RAAF job that I said, "I think I helped someone today". And I felt pretty good about it, and then we heard a rumour about a day or two later that the RAAF police had caught Alan doing something else. I went, "Why bother?", you know.

Nor does Greg's tale end there. He says he had been a bit of a loner at school, and empathised with Alan. He explains how he got where he is today by effort and determination. In a sense, he still feels sorry for Alan. The coordinator turns to Alan's father. It has not been an easy time for him, has it?:

It's been a very difficult and disappointing situation, not only...especially for Alan, and of course, the victims. To understand why some of it occurred, you really have to know the lad and his predicament from a long way back. The other people that were associated with him in this crime had been fairly long time friends of his, and his superiors in the Air Training Corp, and he was quite used to following these people. And...not that that absolves him of any blame, but I think that's one of the reasons how he came to follow along with them. Probably one of the major reasons.

Alan's father explains that when he first heard about the incident, he assumed his son may have known something about it, not that he had been involved. Only later, after Alan had made a statement to his work authorities, did his father suspect that something had been kept from him. Alan's father asked Alan to sit down and tell him the truth. Jill suggests that this explains the first change of statement. Alan's father agrees. Then he continues:

As things unfolded, it became obvious that he was involved, so we had to sort out how much he was involved. And from what I know of it, he did assist these people to do this. He was actively, he actively assisted them. I believe the other two parties are the culprits. Alan was actively assisting them. That's more or less the situation.

He explains how his son had been given a second chance, and how he blew that chance almost immediately:

Personally, I am very disappointed for Alan. He's thrown away a very good career over this. He's been subsequently unemployed since. And incidentally, he's been the victim of crime himself since, so he has seen it from both sides now. I can only relay my regrets to the victims. There isn't a lot more I can say about it, apart from that. I appreciate the efforts of the RAAF. I think Alan does too. He has difficulty saying these things, but at the moment there it is, he's unemployed, and he's thrown away a good career over quite a silly thing - a silly thing to do, I mean.

The coordinator asks Alan's father whether they have discussed the incident since he was forced to leave the base. And how has his son been?:

Alan's a good lad. He's quite an intelligent boy. He gets good marks, or did get good marks at school. He's always been very good at science, that sort of stuff. He's very - he's quite intelligent, however, he lacks social graces. He's a product of a single parent family. I raised Alan since he was about, what, eleven or twelve. Although that in itself is no excuse, but it probably...I probably as a single parent family, it's very hard to devote a lot of time to your children.

More biography follows. He describes his son's twelve months on the job, how he had been progressing well until things suddenly began to go wrong. He had encouraged his son to come clean about his involvement in the theft. It's time for him to start again somewhere, else, says his father. The coordinator asks Alan's sister whether she had been aware of all of this:

Well, see, I didn't really know much about it, so I didn't, you know, ask him any questions or anything. So...but I'm really disappointed in him, because I didn't think that Alan would do it, as my brother. Like I thought he was a lot, you know, smarter than that. But you know...So that's it...

She describes how much her father had been upset by the whole affair. He had other problems, so he didn't need that. Does Alan's father's partner, Sue, feel the same way?:

Alan's pretty good, but he did cause his father a lot of worry and sleepless nights over that. But usually he's pretty honest and that.

Having addressed the question of who has been affected by the incident, the coordinator raises the ongoing problem of locating the stolen goods. Jill reminds participants that her investigation is continuing, but without much success. Alan, meanwhile, is looking for work. So what would Malcolm like to see out of this confused affair?:

Well, what am I going to get, yes? Well, I mean, both myself and Corporal N___ were involved with Alan, the day he was told to put in his discharge. We got in a room with him, and that's when the story came out. We showed him his options, told him what his options were, that the Air Force had just had enough of him, they wanted him to put in a discharge. It wasn't a matter of, you know, it wasn't his decision any more. The Air Force wanted him to sign for discharge on his own request.

As Greg said, we...well we felt a bit sorry for him. Even though I'm a victim, you know, I thought, well, okay, he indicated to me that there were two other people who were more guilty than what he was, and maybe we could help him out. If he could come

clean, tell the whole story, we may be able to get enough on these other two guys to incriminate them, and get them what they deserve. But of course, after that, I mean, the lies just kept on coming. You know, we thought we'd sorted him out, then we hear the next day that he's been caught siphoning petrol. And the Air Force just gave up on him. So obviously I gave up on him too.

What I want out of this is, I want what's mine. Now no doubt the computer's either lying on the bottom of the Murrumbidgee River, or in Sydney being flogged off to somebody else. I am still paying for something that I haven't got, that somebody else is either using or the fish are eating. I would like something to show for all this money I am spending, or if not, then I want my money back. Now I see that as the only fit and just thing from my side of it. I don't really care who stole the computer. I just want the people involved in it to return what's mine.

Now whether a guy acts as a look out, or whether he actually picks it up in his own hands, I believe that all is guilty. I mean, a crime is a crime, whether you just help somebody do it, or whether you do it or you're the main instigator. You're still just as guilty as each other. And I'm sorry, but I just can't say, "Oh, he's not a bad boy, he didn't really mean to do it, he only held the door open for them." To me, he was part of the crime, and he's just as guilty. That's how I feel. So if his other two mates can't be caught, then he's going to take the whole responsibility for it.

How does Alan feel about that? He understands what Malcolm is saying. Malcolm underlines what he has just said, recounting the cost of the computer and the outstanding debt. Does he want an apology? Well, says Malcolm, the time for apologies is past. He had ample time to own up and apologise once he knew who the victim of the theft was. He had to be shown the immediate consequences for his career before he even began to tell the truth, and even then, each version conflicted with the last. He's had months now to apologise. All this has been very hurtful, suggests the coordinator:

That's hurt me a fair bit. I was responsible for their, for...The bivouac was a training session to give them a chance to think for themselves, to show what they are made of. You know, we had a series of objectives to meet, and we assisted them to meet those objectives, showing them the hard way, or the easy way. So we were there to give them moral support, to give them our knowledge, our training, to build character, and not a word was mentioned, you know.

He knew I was...He knew the computer was stolen from me, because that was the conversation every night for five nights - about my computer that was stolen. So he knew who the victim was straight away. So I think long gone are the days for apology. He knew from day one who was responsible.

What does Alan make of all this?

Well you've got to understand also that these people were long time friends of mine, and well, it is fairly hard to come out and say, well, I've committed a crime.

Yes, the coordinator can understand all that. But Malcolm is concerned about the cost of his computer - that is the bottom line. What does his father think?:

I agree with most of what you say. I feel Alan did well and truly know things and did betray trust, and kept things to himself when it would have been far wiser to admit them first up. I believe he is at least partly responsible for some form of recompense. I believe that he has, albeit at a much later date, he has been the one who has ultimately

come around and given evidence, and stated it as best he can. It may have taken a long time, but we did...he did, in the end, more or less come clean.

I believe that he obviously was in on it, and he should be partly responsible for it. I am not too sure that it's the right thing to do is to grab the one guy who's actually turned evidence, and say, "Okay, you know, you've earned your part of it, you must be guilty for the whole lot", and claim compensation from him. I think it's an ongoing investigation.

JILL: Can I just say there that the main reason the other two haven't been charged is because of the fact that Alan would be a very unreliable witness, considering that he's given at least three other statements before, and that was our main problem. Like we couldn't possibly take the other two to court on Alan's evidence, because they'd just laugh it out of court.

FATHER: Of course, I appreciate that...

JILL: And that was our main problem with the whole investigation.

Alan, in other words, has painted himself into a corner over the course of the last six months. Finding it difficult to balance loyalty and honesty, he appears to have made the wrong choice on every occasion. So yes, Jill is making further inquiries, but they are unlikely to lead anywhere. Unless the others make statements of their own volition, little will change. Alan has rendered himself an unreliable witness, and the person most affected by that is himself.

The coordinator asks Malcolm what he has to say about all of this. He has realised early that the matter could not proceed to court - once Alan had produced his third inconsistent statement. At the time, Malcolm's main concern had been to see that Alan did not ruin his career. Val says she understands how difficult it is today to make ends meet. She talks about parenting:

Because of the job circumstances outside, to get into something like that. I think what's more so, even my husband was - we try to bring our children, I mean, in line, sort of, in our house. More so for the older ones it is really a no no. I think for the first time last year, my daughter lied to me once, and it took me months to believe her again. Because it's one of those things, you know, you have to trust your children.

And in the police as well. I understand exactly what they are going through. They've had three different statements from Alan. I know, okay, Alan was trying to protect his friends, which I think a lot of young people these days do - they stick by their friends. But look what's come out of it. He has the whole blame, which sort of in one way is understandable as well, because who else have they got? You know, he's had three different statements, and the thing angers my husband more - because he's tried to keep Adam in, because he has been doing well in the Air Force. And because he's wanting to protect his friends, he's the one that's lost out of it.

FATHER: There's no doubt about it, him changing statements like it has, more or less, left it in the situation where he's the one holding the baby. I mean, it's not...Even though there may have been other people implicated, it's your own, by your own misadventure that, you know...You're the one who's going to have the ultimate responsibility, even though you have, as far as we know, come clean and told the truth.

COORDINATOR: Which is very important to remember, that what you did, you know, is the only fair and just thing to have done.

Alan argues that he made an effort to find out what happened to the computer, and that that should suffice. The coordinator notes that it hasn't been found, and Malcolm is still out of pocket. But Alan simply doesn't have any money. Alan's father reminds

participants that his son is still looking for work. Perhaps in the future, if he's fortunate enough to find some, he might be able to make some recompense then. He asks his son how he would feel about that:

ALAN: Well, I wouldn't be happy at all, because I've come forward and made my admissions, and these other two are getting off scot-free.

FATHER: Yes, I can see that too, son., but nevertheless it still doesn't change the fact that, at the moment, you're the only one that has been shown to be involved.

JILL: Alan, I might just point out there too, that it's not only the computer that's gone missing. There's also an embossing machine worth \$1200, so, you know, \$3000 is just part of it anyway. So you know, there's just one thing I'm looking at here. There was \$20 cash, there's power cords, there's disk drives, you know, just...

COORDINATOR: The story goes on...

Indeed it does. Malcolm reminds people about an earlier break-in in which several hundred dollars was stolen from the same office. The culprits have not been identified. Jill confirms this. Val wants to make it quite clear to Alan's father that he should not feel any sense of vicarious guilt, even though he is understandably ashamed of his son's behaviour:

VAL: I mean, what I would like to point out here too is, I mean, I don't want Alan's father thinking, once we get out of here, we are thinking...to think that we're blaming him, because we are not blaming the father whatsoever. I mean, even though he's from a single parent home, that's got nothing to do with it these days, because, as we know, we've got children ourselves. You could have the best upbringing for your child, and, I mean - and it's not always the parents. I mean, you know, it happens, you know, I'm hoping to God it never happens with our children. But he's lucky he's got his father behind him, because a lot of kids these days...That's why there's so many homeless children, the parents just couldn't be bothered, and they throw them out on the street. You know, it's really, really sort of, it's very sad to see too.

So I don't want Alan's father - I am sort of disappointed with Alan for what's happened, because I know Alan's saying he shouldn't take the whole blame. But then I look at it too, Alan, you've had three chances to sort of really come out clean, and you're saying you shouldn't get the whole blame. I mean, if you don't want to have the whole blame, why didn't you speak to the police and let everything out that you know, because obviously you were still keeping a lot inside?

And I mean, I'm not, you know, police or anything, not trying to do anybody's job, but just by talking to him here for a few minutes...And his father, I mean, you know, his father's confused too, as well. You know, I mean, you brought up your son all these years, and all of a sudden, you know, I mean he's lied to you as well. And it's very hard to believe your own child after a while, too.

Val is distressed on behalf of Alan's father. He says how true that all is. There are aspects of the whole story that are still very unclear to him. Malcolm, for instance, says he advised Alan to resign. No, says Malcolm, I had a direction from above. Alan had no choice. The advice concerned the technical problem of filling out a resignation form! The coordinator asks if he might intervene at this point. He reminds participants that they had been talking about a sum of money, and how it might best be replaced. He would like to see Alan leave here knowing that the matter has been resolved, and that he has certain obligations flowing from that resolution. Malcolm responds:

MALCOLM: Can I ask Alan one question? It might sound a bit callous, but what was your final payout when you were discharged from the Air Force?

ALAN: About \$ 700.

MALCOLM: So you got \$700 to leave the Air Force. Why didn't you offer that to me then and there as part compensation? I can understand that you don't want to pay for it, because you don't believe you're responsible, but surely you must take some responsibility because you were involved.

ALAN: I had a previous obligation to my father for an amount for that much, so I had to pay it to him.

COORDINATOR: I don't think there's any doubt that Alan sees that he's responsible. I guess the thing he's really coming to grips with is the enormity of what he sees to be the responsibility. And if Jill hadn't mentioned it, I certainly wouldn't have...

The coordinator is probably correct - the early mention of a large sum of money appears to have stunned Alan into an intransigence. Once again, Alan is doing his own cause no good. "Is there some possible interim arrangement?", asks the coordinator. Alan's father explains their predicament eloquently and at length. He had been guarantor of a vehicle that Alan bought while still on a decent wage. Alan has also had an accident in another car - part of the separation pay went towards those expenses. Then Alan has been a victim of crime himself, having had several hundred dollars stolen. Nevertheless, he says - turning to his son - the consequences arising from this affair have to be faced. He sums up the situation accurately and with economy:

You were involved, you did take part in it, and you did inadvertently protect other people and yourself, by not relaying the truth up front. So you have to admit your responsibility, and make some effort to, you know - for recompense. You may not agree that you have to take all responsibility, but nevertheless, because you changed your opinion so many times, you've lost all credibility. And again, it's up to you to build that back with a lot of people.

But there we have it. He has nothing.

So what are his financial circumstances. He is receiving unemployment benefits, and living in a flat. The coordinator provides a brief summary of the situation of the two major parties, based on information they have provided in the course of the conference. Would repaying Malcolm over time seem fair?:

Over a time, I suppose, that would be only fair.

How might it be possible? Alan's father suggests a nominal payment of perhaps twenty dollars per fortnight until Alan finds work. Malcolm actually considers this fair - he wouldn't like to see Alan impoverished. But the mechanism for payment needs some consideration. Perhaps the money ought to be paid into an account run by his father. It could then be repaid to Malcolm in increments. The coordinator suggests a suitable size lump sum. Val emphasises that they would not like to see Alan without any money. Malcolm argue in support of his proposal:

I think he needs a commitment, and to put it in a bank account in his father's name, that way stops him touching it, it might teach him a bit of a lesson. His father can control the money, and pay me in lump sums.

Alan's father says he is quite willing to oversee such an account, and assures Malcolm that the money will be paid. If he gains employment, he can make a loan, and expedite payment of the balance. Malcolm is satisfied again. But he wishes to make very clear the reasoning behind his proposal:

...The reason I suggested that you keep the bank account - I suppose I'm still trying to help Alan a bit, and maybe give him and you a better chance to get some trust back. I mean, I've got no trust now. I am sorry, but I couldn't just ever trust you again, Alan.

FATHER: Well, who could blame you really.

MALCOLM: But I am not related to you, and I've got nothing to do with you. However, I can see that if you keep the bank account, you've got some control over it, and something good may come of it. And other than me getting twenty dollars a fortnight, which is most probably going to get wasted, if I can get it in lump sums, then I may be able to use that money effectively.

Malcolm discusses the technical details of these arrangements further with Alan's father. The coordinator suggests that all of this be written into the final agreement, which he would like now to prepare. Is Alan happy with the arrangement? Yes, it seems fair. And Malcolm?:

I mean, I would be only too willing to come to other arrangements if the other two people were caught. I would like to see those two other people pay for the lot. I mean, I do believe Alan's statement when he said that he was only an observer, he held open the doors. But again it's like what I said right at the beginning, if you're there while the crime's committed you're just as equally guilty.

But as Val says, the police have done their best. Circumstances may change. Who knows, says Malcolm, one of the others may grow a conscience - though that seems highly unlikely. Jill suggests that the burden of the payment may work as an inducement to find further information about the case. Unfortunately, says Val, Alan has been a good friend, but his loyalty has not been reciprocated. Alan is painfully aware of that, says his father. Anyway, says Malcolm, if circumstances change, he is more than happy to come to some alternative arrangement. The coordinator asks Alan whether he wanted to say anything else. He doesn't, but his father does - if only briefly:

Oh well, look, we've arrived at a solution, and that was our objective.

The coordinator agrees. He then explains that, for official purposes, this conference is recorded as an official caution. He reminds Alan that what the participants didn't like was Alan's behaviour. Alan's father says that, yes, a theft has occurred, but the one Alan really robbed was himself. That's what the victims have been saying, suggests the coordinator. Yes, says Malcolm, he has lost an invaluable career opportunity. Val hopes that Alan has learned from the experience. She then reiterates a point made by the coordinator:

I don't dislike the boy, you know. And I'm sure he's had a good upbringing, but then at the same time I suppose we all have to pay, you know, for the mistakes.

FATHER: Of course, yes. Yes, we've all got to face responsibility somewhere along the line.

With the agreement finalised, the conference concludes. Alan's father thanks the other participants. Alan and his family leave the room. Val, Malcolm and their children stay behind briefly to talk to the coordinator and his colleague. Malcolm was impressed by the process, and says so. Val suggests that the process was worthwhile for their own children:

At the same time, what the police are doing here is bringing the families together, if you've got children. I mean, it's making our children realise as well, even though they are young - and Nadia she's older - to realise...

MALCOLM: ...what consequences really can be, what ideas you may have to do against one person can have such widespreading consequences about other people. You don't even know, I think. But the whole thing has been proved today.

Malcolm suggests that Alan has actually been lucky that he is not being pursued by his former employers for the cost of replacing other stolen goods and damaged property. Malcolm and Val prepare to leave, but not before one technical issue has been confirmed:

MALCOLM: Righto, thank you very much. I am quite pleased with the outcome. I came here not expecting much, and I am going away with at least maybe a promise.

VAL: Yes, thank you very much.

COORDINATOR: Good on you.

MALCOLM: I just want to make it clear that I presume this agreement is not really binding, and if they decide not to carry on with it...

COORDINATOR: No, the agreement's alright. Can I say that almost all of the agreements that are reached in these forums are in fact honoured.

MALCOLM: Yes, but not actually binding legally. If they wanted to stop...

COORDINATOR: Absolutely.

MALCOLM: There's nothing to stop them stopping straight away, is there?

COORDINATOR: No, and you need to understand that.

MALCOLM: Yes.

COORDINATOR: And you need to be under no misapprehension about that.

MALCOLM: Yes, I gathered that.

COORDINATOR: But having said that, you know...I think that the father is fairly genuine.

VAL: Yes.

MICHAEL: I think that's why I wanted him to pay to his father, to at least...If he was paying it to me, and he stopped paying it to me, there's nothing I can do. But if his father keeps him honest, I may get the majority of it.

COORDINATOR: Alright, thanks for that.

CASE 13: SELF-ADMINISTER PROHIBITED DRUG

This case was complicated by the fact that the officer involved is the brother-in-law of the offender. The conference provided an opportunity for all parties to deal with the issues that arose as a result of the incident.

The conference begins matter-of-factly. The coordinator offers a short introduction, then asks Sally to tell the other participants about the incident. She says she was smoking drugs and was caught. That's it. So had she been smoking for long before she was caught?:

SALLY: Not really that long. I was smoking for about six months - started this year.

COORDINATOR: Did you like it?

SALLY: Yeah, I did like it.

COORDINATOR: Did you ever fear getting caught?

SALLY: Yeah, I did.

And the fears were realised when she was caught? Yes. So what has happened since then? Well, it has sometimes been difficult living under the same roof as her parents. And it has affected one particular police officer. The coordinator asks Sally about that officer:

SALLY: My brother-in-law, I love him, you know. He's a great bloke, and being up at that house, and seeing Todd at the door in his uniform, you know, it was really scary.

So Todd was affected by the incident. And what else has happened. Her father is upset that she has been using drugs. Her performance at school has just started to recover. The coordinator asks Sally's mother how this incident has affected her. She sees some good coming out of the police intervention:

MOTHER: I was very upset.

COORDINATOR: Devastated, were you?

MOTHER: Yes, I was, yes, most upset. It might be a good thing. Hopefully some good will come out of it.

COORDINATOR: What was the single worst thing for you, for the mother?

MOTHER: Todd was the one that busted her.

And since the incident, she and Sally have been getting on well. Sally's father likewise sees some good arising from the police intervention, although it has been a difficult time since then:

Yes, it has been actually. When it came to a head - I'd suspected it actually, and discussed it with Sally - but when it finally came to a head, certainly the feeling of devastation was very strong, but looking down the road two or three years is what was concerning me, how she was going to finish. It was a great relief really that she got busted actually, in the finish. I was very pleased that it did happen, and I was quite pleased that Todd was there to look to her welfare while he was doing it. I just hope that she's going to turn the corner. I think she will. I've got a fair bit of confidence in her. She's a pretty stubborn girl, but she's not lacking in intelligence, and I've got every confidence in her. The fact that we love each other very strongly, and as a family we've been very close, and I think that will stand us in good stead too.

Yes, we've got to pick up that trust again, and that's hard. You can't take anything on face value, and I think Sally has got to get the idea out of her head that she's being cross-examined every time we ask her something about what her plans are, or when she's going to go anywhere, this defensive mechanism comes into play, which makes it very difficult to communicate at times. She confuses taking an interest with cross-examination really at times.

But, he adds, he and his wife are quietly confident in their daughter. She's a wonderful person - if a bit easily led by her friends at times. The coordinator asks Sally's big sister - who's holding her hand - what she thinks of it all:

SISTER: Well, I was just worried about what Dad said, you know, two or three years down the track, in a gutter somewhere, when she's got so much potential. Yes, I just didn't want to see her throwing her life away over a stupid thing like drugs.

SALLY: I would never have let that happen to myself, though.

MOTHER: That's what they all say.

FATHER: You don't realise it is happening until it's too late.

SALLY: That's true.

MOTHER: Tell him about how you were starting to walk, and starting to go down then.

FATHER: You are starting to lose your dignity when you do that. You don't realise you are doing that until it's too late. Then it's hard to get back.

The coordinator takes the issue of dignity as a cue to ask Todd how he dealt with the dilemma of having to intervene when a relative is involved:

It was very hard to go knock on that door, and see what happened inside. Go there looking for some stolen property, and finding Jenny had heaps of drugs, like an esky full of drugs, and seeing a type of a bong. It was very hard to go and knock on that door.

COORDINATOR: What were the issues for you there?

TODD: Just what people would say about Sally and me, with Sally there, and offences taking place. Like, the bosses would say did I do my job correctly, and all that sort of stuff. Was I biased? or can I be trusted?, and just things like that.

It was indeed a difficult situation. Sally's father elaborates. They had some electrical equipment at their place, which the people at Simone's place had asked them to look after. Yes, Todd says, local police had received information about a stolen video recorder. Sally's father continues:

So it was hard for everybody, because we were aware that Sally was going to be possibly put in a compromising situation immediately after the police left our home, and the temptation to get on the phone was very strong, but we felt that if it was going to happen, it was going to happen, and we also couldn't put Todd in a compromising situation as well. It was a very difficult time, while we waited, and something I feel none of us would like to go through again - knowing that Sally was up there at that home, and hoping against hope that she was going to be a "clean skin", so to speak, when the police did arrive. And knowing that Todd was involved in the actual going to the home was a very difficult time for us all, but to Todd's credit, he handled it well. We, as parents, we bit the bullet, and sat down and had a cup of coffee, and waited, and didn't touch the phone, and I could quite easily have rang and said to Sally, "Get out of there". It was a very anxious time for us.

That took a fair bit of courage, the coordinator suggests. Sally's mother agrees. The coordinator addresses some of the other complicating factors - particularly those relating to his colleague, Todd. Under the circumstances, suggests Sally's father, complications are inevitable:

Well, when you consider how close we all are, and you know, our family has always been close together - I suppose the social structure of today has made us that way, but we always have been a very close-knit family - and Todd has become part of that family, and it was a nasty situation, and Todd handled it very well. We couldn't

compromise Todd's future on the gamble that maybe Sally had compromised hers. It was difficult for us to make that decision, but fortunately, Todd handled it very well.

SALLY: I was glad Todd was there.

The coordinator comments on some of these issues, then reminds participants that this conference is registered only as an official caution. He makes it very clear to Todd that this decision has nothing to do with him as a police officer. Todd is pleased with that reassurance. The coordinator then praises Sally's family for providing her with so much support. The only formal agreement the coordinator would like to see is a pledge from Sally to her parents not to use illegal drugs for the next twelve months. Is that acceptable? It is. And she doesn't need to apologise to him, says the coordinator:

SALLY: I'm just sorry to my family. I love them.

FATHER: And sorry for yourself that you did it. That's what you want to be sorry for.

Apologise to yourself first, love.

SALLY: Sorry that it came to this.

The coordinator reminds people to keep a sense of perspective. It's not the end of the world, but it has been a difficult time. Sally agrees. The conference concludes.

CASE 14: BREAK, ENTER AND STEAL

There was an interesting slant to this case of three boys who stole money from a legal firm - the victim had worked as a duty solicitor in the Children's Court system. He chose to make a comparison between the court and conference processes, from the perspective of a forgiving victim. As always, of course, there was a good deal of discussion preceding that part of the conference.

The coordinator asks each of the boys to give their version of what happened on the night in question. Philip, who is seated closest to the coordinator, speaks first:

I went around to Kevin's house on Sunday afternoon, and Warren wasn't there at that time, so we gave him a ring, and he wasn't home, so he rang us back, and then he came over. Then we had some tea, and then we just went for a walk down the street, and came back. Then we got some drink - fizzy drink - and then went down the street again. I bought a pizza for us three at Pizza Hut, and then we went down to, I don't know the name of the place, but down to F____ Street, and Warren went looking for the key, and couldn't find the first key, and then just looked around, and then found another one.

Warren is asked how he came to know where the spare key to the legal firm was hidden. He explains how he had seen people using it - without mentioning the family connection. He then describes what happened afterwards - how they took the money and went to Kevin's place. Yes, they were a bit frightened at that stage. Kevin explains how they then walked over the main hill and the nature reserve at the south end of town. Philip explains how they were stopped by police, who asked for their names and addresses. It was already after one in the morning, and yes, the boys were nervous. The coordinator asks why the police may have wanted to know what the boys were up to:

They were particularly interested in you boys because of what you were carrying, was that it?

KEVIN: Yeah, well, we were wearing dark clothes.
PHILIP: We were wearing black, that's why they pulled us over.
COORDINATOR: You were wearing black, and what were you carrying?
PHILIP: Well, I had one knife on me, a fishing knife, because it was in my jacket at the time when I was going over to Kevin's
COORDINATOR: What did you have, Warren?
WARREN: Yeah, similar stuff, a knife, and a pair of cutter things.
COORDINATOR: Cutters, and what else?
KEVIN: I had two knives, a pair of cutters, and some screwdrivers and a hacksaw blade.
COORDINATOR: You were wearing black?
KEVIN: Yes.
COORDINATOR: You were out at half past one in the morning, and you had this arsenal, knives...Who had the hacksaw blades?
KEVIN: I did.
COORDINATOR: What's happened to you since this incident, Warren?
WARREN: I've learned a lot. I learned that it makes other people think...worried.

Kevin has learned to think carefully before he does "certain things". He simply has to think more, he says. Philip has learned to listen to his parents - they had asked him not to go down the street that night. Philip's father explains just what was said that night. Both of Philip's parents had asked him not to go down the street after dark. All three boys have been worried since that evening about what might be said at school. The coordinator asks Warren what has been particularly difficult about the case for him. He needs a bit of prompting to acknowledge that, by stealing from his mother's place of employment, he has made life difficult for her. What has worried Kevin since the incident? He's been concerned about himself. Anyone else? His parents. Philip says the same. The coordinator now asks Warren whether he has considered how people at the firm may have felt, knowing that someone had been through the premises? No, he hadn't. Philip says he had thought about how hard it would be for the people who worked there:

PHILIP: Yeah, I thought about the people who worked there, and all that, and I thought that it was going to be hard for them. Like, this was after it happened.
COORDINATOR: What happened, Andrew, when you realised what had happened?
ANDREW: We were looking for who borrowed the petty cash actually. I mean, a few of the girls were sort of thinking, "Well, who's borrowed the petty cash", and then it got back to the situation where we realised that something had happened, because the petty cash had been cleaned out in total. It was a case of really looking to see what else had been taken, and that's probably about the extent of it.

Andrew then explains at length how there was initially a search among employees for the person who had taken the missing cash. Then they realised it must have been taken by an outsider, since everything had been removed from the petty cash. Actually, people in the office were thankful that nothing else was taken and that there was no property damage. He explains that there was nevertheless some concern that the personal legal files of clients may have been read or tampered with. Part of the difficulty, suggests the coordinator, was knowing that the spare key had been used - so that someone connected with the firm was implicated. Andrew agrees:

Yes, I mean, I certainly don't lay any blame on Jill or Dave at all. I mean, it's a situation where it's just disappointing that Warren sort of abused the trust of knowing where the key was, and which...As you well realise, there are no keys there now, but it certainly was disappointing that Warren knew where the key was, and then chose to show others where it was.

The coordinator asks Warren's mother, Jill, how this incident has affected her. She was shattered, she says. So what happened when the police rang?:

I just woke up in the morning, and I immediately thought somebody had been killed, or injured, and when they said they had my son down there, and he was out, he'd been caught in dark clothing - he didn't say anything about where they'd been, just that they'd picked them up on L___ Road - and I just thought probably he was lucky the police picked them up, and not other people who are also out at that time of the night. So when we got down there, and they told us they had been into my office, I was quite devastated and didn't really know what to think then. I was quite scared as to what they might have actually done. I pictured an office full of disarray, and I was quite anxious to get there in the morning.

Warren's father also thought someone had been killed when the police first called. After he and his wife were called down to the station, his greatest concern was how this would affect her at work. He was also hurt by their son's betrayal of trust. And yet, the coordinator says, people have many good things to say about Warren. What does his big brother make of the whole affair?:

I didn't find out until twenty eight hours later, or something like that. I didn't really sort of believe it at first, because I didn't get the whole story either. I just heard they had been caught. I didn't know they had broken in or anything, and I just thought that it could have happened, because I know Warren sometimes carries knives, like if we go on holidays or anything, he'd take them, and he usually sort of plays out around the house and that.

COORDINATOR: So he's got an attraction to knives, has he?

KERRY: I suppose you could say that.

COORDINATOR: So I thought he probably would have had them on him at the time, so I didn't know what to think about it.

COORDINATOR: You were a bit disappointed, were you?

KERRY: Well, everybody has stuff like this happen to them, so I sort of thought he'll learn from this.

Warren's cousin, Monique, says she thought it was fair enough that he and his friends were picked up by the police at that hour of the morning. It was only later that she had found out about the theft of the money - and she was shocked by that. The coordinator turns to Kevin's mother and asks her what happened on the night. She too was shocked - but above all by the fact that he was out at night - she had gone to sleep confident that the boys were in the room they used when others were sleeping over. Kevin's father says he could have wrung his neck when he found out. The coordinator asks Kevin's older brother what he thought when he was asked to attend this conference:

Well, I really didn't know what to think. It's only now that I've sort of heard the full story. All that I'd sort of been told was that they had been picked up at three o'clock in the morning, and he was down at the police station, and that was all I sort of knew

really. I didn't really know what happened. We just heard "breaking and entering" or something, so exactly what had sort of taken place, I was a bit vague as to what happened there, but upon hearing everything now - that they were walking around with knives and hacksaw blades - I can't believe they were so stupid, you know, like the age that they are at, after going through high school and everything, they must have thought they were in some fantasy land or something, or some cloak and dagger mission or something. It's really unbelievable. There had obviously been a bit of planning sort of gone into the thing, and they must have thought they were on some secret mission or something, I don't know, but it's reality now I think for them, and as you said before, the consequences of each and every action that you do, and this is it here now, so I hope they realise what they've done affects everybody, not only the place that the crimes, or whatever they did, the action that they do - but also their family, and their friends, and everybody really.

Philip's parents were also surprised by the whole incident. It all seems out of character for the boys to behave this way, says Philip's father - though they had previously made jokes about Kevin dressing in black and looking suspicious! Philip's mother describes her anger at the way he had betrayed her trust. Philip's father feels much the same way:

I've had a lot to say to him about it. I thought actually I'll shake him up a fair bit about it, and he will be shaken up for a while about it afterwards too. When all this is finished, he'll still get ribbed about it for a while, until I can wake him up. That knife - he was told three months ago to get rid of that. That's for when he was fishing, and he's using it as a fishing knife. I said to him, "Get rid of it!". It's the only thing, I know he has a knife. I told him three months ago, "Get rid of it" - and going out the hour he did. He was working with me in building a greenhouse in the backyard, and he's paying for it out of his own money from what he's earning, and he's paying for everything - timber, the whole lot - and I was working with him, and I said to him - because I heard Lisa say that he could go to Kevin's, as long as, you know, he's home by dark - and I said the same thing while he was working with me in the backyard. So he's virtually taken my trust, and he broke all the rules. I've told him he's grounded. He's not going to go anywhere now for a good while. He'll be lucky to get into town after work. It will be straight home.

Philip's older brother is asked what he has thought about the incident. He too uses the words "stunned" and "shocked". The coordinator makes an observation which draws a confessional response from Philip's father:

COORDINATOR: I guess it's important to keep some sort of perspective. I know you are all sort of a bit devastated by this.

FATHER: The thing is, I think, you can't really blame one kid or the other. You can't blame one family or the other. They've done it, and I just hope the whole three of them realise what they've done, and make it the last. It should never happen again in their lifetime, if they take notice of what's going on, and this should shake them up. Look, I'll personally say it happened to me when I was fifteen, and I've got six children, as you realise. I'm one of six, and the eldest of six, and it happened to me, and shook me up, and it's never happened to me again since. I just hope it happens the same way for these kids, that they realise what's happened, and that's it - it can never happen again in their lifetime.

Like Kevin's older brother, Philip's father sees the incident as an opportunity from which to learn. The coordinator now raises the issue of compensation. About fifty dollars was taken.

some quick calculations are done. Andrew is asked, on behalf of all his colleagues at the firm, what result he would like to see from the conference. Combining his personal and professional perspectives, he shows as much interest in the process as he does in the result:

ANDREW: Actually, I'm delighted to see cautioning, and in fact, I can say this, that we've all got kids here, and I certainly don't blame any parent, because I've got kids, and I know what I was like as a kid. We've all been a little bit wayward, and we've been easily led, but I think you boys are lucky that you've been given the chance of a cautioning situation, because I do all the criminal law in the office, and I see them coming before the courts. The boys and girls come in, and they come in from the best families in Wagga, and you just think, "Gee, what are they doing here?", and it gets back to a situation where you just haven't thought, you've been led by the three of you. The parents have pointed you in that direction, and you guys have decided to go that direction, and that's no slight upon the parents. As parents, we can only point you in the right direction, and hope you go that way, and I'm probably happy for the three of you, the fact that you get this opportunity of having a caution, because once you go before the court, you are then tainted. You've been given this opportunity not to be treated as a criminal, and unfortunately, by breaking and entering, that's what you are - a criminal. You might be on the lower scale of it, but you have been given the opportunity, and it won't be something that is going to be affecting you for your future, as far as job prospects. I think you are probably lucky that you've all been able to come to this tonight, and have it disposed of this way, and I believe that's the way it is going to be disposed of, from the officer's point of view.

I've got seven partners down there, and I can say that we are more than happy for it to be dealt with by way of just a caution. I'm over in court there every Monday, and knowing a couple of the sets of parents here, I know that there is direction there, and I don't expect to see you blokes over there on a Monday. I think you've probably learned a lot from this, and we are more than happy with all of you coming out and saying your piece, and learning a good lesson. I sound like a lecturer, but if any of your mates are going to get into trouble, you've just got to say, "I'm going home", and that's it, because you only get one chance, and this is it. So that I can say that we are quite happy that the matter be disposed of right here.

COORDINATOR: It's probably a little bit harder than going to court, do you think?

ANDREW: I think it probably is. The courts probably can sometimes be a bit easier because your parents are there, but they are in the back of the court, and you've only got one person getting stuck into you, and that's the magistrate. And if you walked out of court, you'd walk out with a bond, or something like that. So I think this is certainly a better procedure.

The coordinator asks Warren whether there is anything he would like to say? Warren apologises to Andrew for abusing his trust. He says it will take some time to get back his parents trust. Philip offers his apologies to all the people at the office, to his parents, and to the other people affected by the incident. The coordinator asks whether any parents wanted to say anything else? Philip's father is just glad that they have been given this opportunity to really understand how the incident has affected people. The coordinator raises the issue of a formal conference agreement. All three boys think that writing formal letters of apology to the firm would be a good idea. Philip's father suggests that his son go to the front desk of the firm at the end of the week and pay back his share of the money that was taken from the firm. Andrew says that this is a good idea - he will advise the receptionists that Philip is coming. The agreement is signed. The coordinator asks the boys whether they might be able to break the

fascination with the knives, the dark clothes, and the late night wandering. His colleagues, he admits, are inherently suspicious, but they are also concerned that, on the streets at that hour in dark clothes, the boys are in danger of being hit by a car:

So just think about those things, fellas. That finalises everything. Again, thanks for coming. We feel it's a far more civilised way of dealing with these sorts of matters. Whilst, from the outset, it was going to be difficult, I think that when you reflect back on the process, I think it is far more positive than the courts.

CHAPTER 3: PERCEPTIONS OF PARTICIPANTS

The previous chapter presented transcripts from fourteen conferences convened by Terry O'Connell during 1993. With considerable additional resources and time, it may have been possible to conduct subsequent interviews with virtually all of the participants in these conferences. Such extensive qualitative research was, however, impractical. It may also have been unnecessary - producing a great deal of duplication and repetition. Furthermore, there were also reasons to pursue qualitative social research on the impact of the Wagga model with a degree of delicacy and restraint. By late 1992, it was already clear that people who had participated in the program might be subjected to excessive intrusion from local students and academics.

Wagga Wagga is the largest inland city in New South Wales - but it is still only the size of a few large metropolitan suburbs. Academics and students from the local university campus - and social welfare students in particular - conduct a fair amount of social research in the city. It is, therefore, not unheard of for local citizens to participate in several research projects. This may not be problematic in many cases. For research involving matters of juvenile justice, however, intrusion into people's lives is a sensitive matter at the best of times. By the end of 1992, four reports on beat policing and the family conference program had already been produced by social welfare students from Charles Sturt University.¹ Care had to be taken not to make further demands of those who had already participated in this research.

Fortunately, these reports are generally of a high standard, and have provided important data. The report on young offenders who had attended conferences, for instance, took a random sample of thirty young offenders and asked them and their families a series of very useful questions. The researchers found the answers to these questions to be both surprising and consistent:

The research team, when it began this investigation, had a number of preconceptions. These preconceptions were stereotypical of young offenders. They involved such things as family type, socio-economic conditions, and lack of success at school. Our findings turned these perceptions on their head.

[...] It became more and more obvious as the interviews continued that many of the offenders had gained an empathic understanding for the victims of their offences. The majority of the young people believed that the victim was satisfied with the outcome of the conference. In fact some of the families of the young offenders reported that the victim had offered help to their child.

Many families believe that as a result of the conference they have perceived real behavioural changes in their children.

¹ J. Payten & R. Fitzgerald *Beat Police: The New Direction in Policing*, A report to the Wagga Wagga Community Consultative Committee (1991); B. Coates, N. Couling, K. Dymond & J. Jamieson *Support for Young Offenders who have been subject to the Wagga Wagga Police Cautioning Process* (1992); G. Gore *Victims who had been involved in Family Group Conferences* (1992); R. Branch & A. Jarick *Education Video on "A New Direction in Juvenile Justice"* (1992). Copies of all reports housed at the Centre for Rural Social Research, CSU- Riverina

This report would contend that the conference reduces [the] possibility [of net widening]. The young offender is not put in contact with other young offenders, the court system or juvenile institutions, thereby limiting the possibility of being seduced into the criminal culture. [...] The majority of young people who were interviewed told us that they had changed their peer group since the offence was committed. [...] On the other hand, there was also a realisation by both the young offender and their parents that it was going to take a period of time for real trust to be re-established.

A stereotypical view of young offenders is that they lack social support networks. Our research did not find this to be true. The support networks of those interviewed appeared to be quite robust. [...] In terms of other support networks many of these young people had become involved in sporting and social organisations. This involvement was strongly supported by their parents who have increased their interest in who their young people are with, what they are doing, and where they are. This interest has resulted in both the children and their parents reporting improved communication between them.)

One of the more interesting support networks, which has arisen as a result of the Family Group Conference, is the relationship that has developed between a number of parents and the police sergeants. [...] There seemed to be a changing perception which saw the police not just as authority figures but as people who offer guidance and help.

The research concluded that "to implement further support [programs] for young offenders would be counter-productive...The majority of young people and their families who were involved in Family Group Conferences found them to be positive, effective, and an appropriate way of dealing with the first offence committed by a juvenile...It is also suggested that the conference option limits the possibility of net widening which is prevalent in the traditional system."²

This earlier report served as a preliminary guide for some research in the current report. The original sample was large enough to suggest certain patterns, and to indicate a general satisfaction with the process on the part of young offenders and their families.

Another student report chose to consider victims' perceptions of the process.³ The sample size in this case was only six - too small to safely identify significant patterns. Nevertheless, the report noted that those interviewed had all been very angry to begin with, had found the process very useful, were most concerned that offenders understood the consequences of their actions, were most impressed with being given the opportunity to have their say, and - on a scale of one to ten - all rated their satisfaction with the process at eight.

These preliminary research reports made small numbers of further interviews with victims and offenders potentially redundant. What could a new round of interviews produce that had not already been said and reported? Actually, there were several areas that needed further clarification. First, given the availability of conference transcripts, more detailed questions concerning the conferences themselves could now be asked. Second, people who had participated in unusual conferences could be asked

² Quotations from Coates et. al 1992, *op. cit.* pp. 6, 6, 7, 7, 8, 8 & 1

³ Gore, *op. cit.*

for their insights into the effect of the process. Third, detailed questions asked of supporters - rather than victims and offenders - might produce more objective judgements about the apparent effects of the conference on victims and offenders. Fourth, participants who had multiple perspectives on one or more conferences might provide particular insights. Of particular interest were professional educators, lawyers or welfare workers who had attended a conference in an "amateur" capacity - as a victim or as a supporter. The interviews from which excerpts have been reproduced here were conducted with these concerns in mind.

All of the cases discussed below have either been presented in the previous chapter, or have been discussed in other writings on the conferencing program in Wagga Wagga. The interviews were structured only loosely, according to the following guidelines: The purpose of the research was described. It was indicated that a primary aim of the research was to determine whether the model was worth persevering with, and, if so, how it might be improved. It was made clear that the researcher was interested in perceptions - before, during and after the conference - about this way of dealing with juvenile justice cases. Within these guidelines, various side issues were pursued. Interviewees were encouraged to make suggestions for improvements or modifications. The observations of each interviewee are reproduced here in the sequence in which they were originally offered.

CASE: ASSAULT - TOM (OFFENDER) & ELAINE (TOM'S MOTHER)

The conference held to deal with this case was not presented in the previous chapter - as it was not tape-recorded. An interview with the offender and his mother was, nevertheless, considered worthwhile, since the case was noteworthy in several respects. First, it was held in a small town less than forty kilometres from Wagga, a town in which the social ramifications of the incident in question are probably more significant than in a city the size of Wagga. Second, this was the first conference to be held in that town. Third, the roles of victim and offender had become confused as the conference progressed. A range of pre-existing tensions between the two families was revealed.⁴ It was important, therefore, to consider whether the conference had resolved or exacerbated these tensions. The interview began with a prompt to recall the most salient point in the conference:

Q: What can you remember now, thinking back on it - five or six months down the track - about the conference itself?

TOM: ...You mean after the conference?

Q: Is there anything that comes into you mind when you look back on it?

TOM: Oh, just that I told [unclear] and that.

Q: I think you went up and shook his hand..

TOM: Yeah, I did.

Q: And was that the most important part of it?

TOM: Yeah.

Q: So that for you was the main moment?

⁴ The case is alluded to in T. O'Connell, "Individual Rights, Police Responsiveness, and Balance" in D. Moore and R. Wettenhall (eds) *Keeping the Peace: Police Accountability and Oversight*, Canberra: University of Canberra & RIPAA, 1994

TOM: Yeah.

Q: Do you reckon that that had any effect on...I understand that things were a bit difficult between the two families?

ELAINE: They never used to be. We used to be just good friends, you know. Over the years, we've had so many fights, you know it was always [unclear] against our kids, you know and for some reason things just sort of got out of hand. You know he was doing as much shit stirring as what Tom was and then he stirs it up and it sort of gets shoved around.

Q: Well, I know from the perspective of the police officer involved that he often says with these conferences: you go in and you have a person who is called the victim and a person who is called the offender. But usually it is much more complicated than that and this was a good example - there were all sorts of issues involved.

ELAINE: There was just a lot of lies. I was just complaining that there were so many lies told, you know and...when she got up and said that I was one of her friends, I mean she's got no friends anyway - because she lies so much and when Chris got up and said what he had to say it was just like it was totally rehearsed, you know? And we were told that they were after money - and that was it.

As turned out to be the case in nearly every interview, the issues involved in this conference proved more complex the more one delved into them. The suggestion here, supported by further investigation, was that the motives behind the original complaint to police may have been less than pure. The injuries to the victim may have been exaggerated:

Q: So, it's clear that there were other issues there. What do you think were the other issues?

ELAINE: Well, the other issues were - they wanted to sue for compensation. They wanted money.

Q: They just wanted cash?

ELAINE: They just wanted money, yeah!

TOM: A lot of times Chris used to go to work and that.

ELAINE: I mean when the police first come and seen me, I was talking to [the investigating officer], and he said to me that they're only after money. He said that. He said they were going to demand compensation. Of course we were more worried about that and we said where are we going to get money from? And more or less, by us all having the meeting, it sort of backfired. I mean everyone...As you just said, the government covers the cost of the medicals and things like that, and like I said, Chris was doing so much work, and then I'd go down there to where he worked and then he was fine, but the minute I would walk in the door, then he would stop work, he'd just stop it. And he was riding a pushbike and everything else, you know - and he was working.

Elaine draws a contrast between the current case and her own behaviour in a case several years earlier, in which she may have been entitled to claim damages on behalf of an injured son:

But I didn't sort of go for money. These people have always been out after money. Always!

Q: Well I guess if they're broke you can half understand it...

ELAINE: Yeah, I mean we're broke too, we're struggling too, but I mean you don't go out to...I mean, they were not satisfied with the result. I know they weren't.

TOM: You could tell by the look on her face.

ELAINE: We were, we were!

Elaine explains that she had felt genuinely sorry for Chris when she heard about the incident. But there was a delay of several weeks before the police became involved, and a great delay of confusion was sown during that time:

Q: Is that the first you'd heard about it Tom?

TOM: Yeah - I come back from fishing and one of my brothers said: Oh the police had been here before and it was a like while after...

ELAINE: Yes. But, I mean, I'd done the right thing. I went and seen them, and then when I was there I had a cup of coffee and everything was fine. And then she turned round and I said: "Well, why didn't you come around home?", and she said - 'cause they live just around the corner - "I went around to your place...but Tom swore and cursed at me on the front verandah - and told me to get off the property!"

TOM: I wasn't even there! I was fishing!

Elaine describes how she sought to determine fact from fiction. As far as Tom is concerned, there is now no ongoing enmity between him and Chris. The rift is between their respective parents. Under the circumstances, then, was it a good idea to bring them all together in a conference?:

ELAINE: I really think, I mean, I know it's really a good idea about all the families being together because it could get out of hand. I mean I was pretty fiery after she said what she had to say and I could have easily got up and smacked her in the mouth. And it was only because there was a police officer there ... And I did say to Robert, before I was down there, I said: "Maybe you'd better have a cell ready for me". You know. He said: "We can arrange that - no worries at all!"

Q: Well, you restrained yourself admirably actually!

ELAINE: Well I had to, didn't I! [laughs] - I didn't have a choice! [laughs louder] You know, and I suppose in one way I sort of might give Jill the impression that I'm tough or something like that - I don't know. I mean afterwards, I said to her: "Jill - I will see you later", and by that token I meant: "I will discuss this matter with you".

Q: Yeah I remember you saying that.

ELAINE: I really think maybe she meant: "Oo-ah! She is going to *see* me later!" type thing, but it was to talk it out - I mean I would rather sit down and talk it out.

Talk - in the form of gossip and rumour - has played a significant role in this case. According to Elaine, Chris's mother has been trying to create a rift between Elaine and her friends - without success:

ELAINE: Well, she has no friends, that's just it, she has lost all her friends.

Q: Fairly recently?

ELAINE: Over the years. I don't know why it is, whether or not it's because she lies so much and you know causes trouble and things like that. I know that there was one time when she tried to sue someone else before this incident and that's when she lost her friends - from that.

Q: And that was in town as well?

ELAINE: Yes. As soon as you mention her name, you know, they say: "Oh yes, we know her!", and as soon as you say like when this all happened, and I would say to them that she is trying to sue us, you know, and they said well: "Jill _____, yes, well we can understand that". You know, so they know exactly what she is like. But when... sort of what I have got on my mind is that she turned around and said that I

rang all of her friends. You know, I rang one woman but she went around and told my whole family and I mean there is seven of us and I'd just had it with the lying.

The essential issue here is the incompatibility between versions of the same set of events. Under the circumstances, then, was the family conference a suitable process in which to deal with this issue?:

ELAINE: I mean, I think that it is probably a better way - you know it sort of saves us going to the local court and it's actually highly counselled isn't it? It's sort of discussing what has happened and how they can rectify it, rather than go through that process. I mean I know kids shouldn't do it, but if those kids go to court, that's the end, you know. Whereas this is so much more relaxed, and it's probably the better way of doing it.

Q: The other point that is made about this is that you were talking directly to the _____s - for better or for worse - but in the court process it would be an official talking to Tom who has supposed to have committed this assault - which turns out to be pretty irrelevant to what they were on about.

ELAINE: Tom did get in big trouble. I mean he got a belting and everything else for what happened. I mean if he would have been there when the police come around I would bloody near killed him - because I only heard her side of the story.

Elaine is clearly still annoyed with herself for having accepted a version of the story which reflected so badly on her son. She describes Tom's concern as events unfolded, as the police became involved, and as his parents refused to accept his version of events:

ELAINE: He was pretty quiet for a while. And of course we didn't let him into town either until we found out the truth. 'Cause, it was three or four days before we actually found out .

Q: So for those three or four days you were accepting the other version of the story?

ELAINE: Yes, we accepted everything she said.

Q: How did you feel about that Tom?

TOM: Oh, not very good - 'cause I knew what had happened and they didn't believe me.

Q: Well, that's pretty common - my Mum and Dad didn't used to believe me either!

ELAINE: Yeah, well my Mum and Dad never use to believe me either! But I just thought: "Well, here's this poor kid", you know. "Gawd, what's he done to him?". I mean, he's so big! Compared to Chris, he's a big boy!

Q: When did you start thinking your parents were going to believe your story?

TOM: Oh, after that, when we went to the police station.

Q: So that was the point where things started being sorted out?

It was. And shaking Chris's hand in the conference was an important way of showing this. But Elaine says she would never have shaken hands with Chris's parents. She says she cried for three days after she realised she had disbelieved her son's version of events. And she still can't understand why all their kids attended the conference while Chris's brother and sister did not attend. They had, in fact, been asked to attend - but simply didn't. So how important was it to have the whole family there? Did they discuss the conference afterwards?:

ELAINE: Yeah, we talked about what could have happened, and we also talked about well, you know it was sort of quite funny too, it was quite funny that _____s fell in a heap, so to speak. Because they ended up getting nothing and that's how it should

have been. They have...I may be wrong, but they haven't been interested in the welfare of Chris. I mean I even heard that apparently Phil - 'cause Phil is his stepfather - that, I even heard, that he did knock Chris around a bit and someone said to me when all this was happening, I mean it sort of added up, [unclear] but someone did say to me: "Well, maybe this might stop Phil pushing them around".

This, of course, is only speculation. But it is one of several possible reasons why Chris's parents were not keen to participate in a detailed interview. Meanwhile, had the conference cleared up the other outstanding issues for Elaine and her family?:

ELAINE: Yeah...I had every second person come up to me in the street and say I heard what Tom done to Chris - so it was "what *Tom* done to Chris", you know, it wasn't what happened between Chris and Tom. It was that Tom was actually at fault.

Q: Did you hear any stories to that effect *after* you cleared up the matter down at the police station?

ELAINE: No - because a lot of people said to me: "Well, how'd you go?" Well, we cleared it up [unclear]...and we got revenge.

TOM: And at school these boys were talking to me about how they were going to sue me and all this junk.

At least at home and at school, the matter now seems to be resolved for Tom. There wasn't much he needed to tell his school colleagues:

TOM: I just told them what happened down at the conference and that. I told them, and that was that.

Q: That you shook his hand and that was that?

TOM: Yeah.

Q: What did they make of it?

TOM: Nothing, they just said: "Oh, good". 'Cause my mate was there with me - he's my best friend - he was with me when I pushed Chris over.

Elaine retells the story of how she first came to hear of the incident, and how it was that she believed the worst of her son. It was the lies that made her so angry about the case. If she is this angry about one sequence of lies, Elaine wonders, what might happen in more serious cases?:

ELAINE: I just sort of wonder what would happen - I mean - the police would have to restrain everyone in the room ..

Q: Well that hasn't happened yet - and they've run several hundred of these conferences, and with what are called "serious" incidents as well. But the point you are making is a very interesting one and that is that, if it were run by people other than the police, maybe people might get up and swing a few punches?

ELAINE: Yeah, yeah, because I think by the police being there, that's enough to sort of stop you from getting up and doing anything stupid. Probably if it was just us sitting around - without all of youse - I would have just got up and smashed her in the face when I heard all that bullshit!

CASE: ASSAULT - JIM (OFFENDER) & JENNY (MOTHER)

The conference to deal with this case was presented as case seven in the previous chapter. The case was particularly interesting for several reasons. First, the charge could well have been far more serious. Second, the roles of victim and offender could well have been reversed. Both boys had been involved in aggressive incidents before. Third, the political ramifications of the case remained unresolved at the time of the interview. The incident in question had occurred within twenty four hours of a ministerial ruling on the use of weapons in school. As a result, the offender in this case had indeed become an unwitting victim of state politics. At the time of this interview, his mother remained confused about how the issue would ultimately be resolved. Meanwhile, she was asked to reflect on the value of the process as a response to the original incident:

JENNY: I suppose it's better than sitting in a court, I guess, but I don't know, otherwise, I don't know - I just didn't see the sense in it. I mean, he's done something wrong, but, I mean he's been punished by being out of school, yeah, but then it's not the same as...it's just not the same as...I wouldn't like to have sat around a court all day waiting for him, and then got it remanded...say after five minutes got it remanded sort of thing. Whereas you sit down and talk to the people. But I don't know, the boys just didn't seem...Although they walked away together from the meeting, and I spoke to his parents and they were pretty good, which surprised me really.

Q: Well they actually seemed very good.

JENNY: Yes! Yeah I was surprised. I know that if someone had whacked my son with a bit of wood like that, I wouldn't have been quite so helpful toward them, I suppose. I mean they were looking to go up to the school and see Mr C___ about the meeting. Yeah.

This leads to a discussion of the political issues surrounding the case. Jenny thinks it is ridiculous that her son was the first victim of a round of urban politicking. She can understand the need tougher laws in Sydney, she says - but not out here. Her son apparently cannot now go back to his school. And transferring to another school will not be easy, it seems:

JENNY: The B___ Hill kids think the T___ High kids are a bit...up themselves or something.

Q: Oh, is that it?

JENNY: Yeah, something like that!...I don't know...If he'd sat down there all day, and been to court, and got a bond out of it - I'd have thought, "oh well - fair enough". You do something wrong, you get punished for it".

Q: But the bond's not a punishment.

JENNY: In a way it is - because if they get reported doing something else wrong in that time, I mean, they take you to a court, in most cases. You know?

Q: You wouldn't have wanted to have seen him in the remand centre would you?

JENNY: Then again, it wouldn't hurt, I suppose. Depends how you look at it. I mean, some of them...At one stage, when he was about ten or eleven, a little holiday wouldn't have hurt him - the way he was going. Only a little kid, but he just got out of trouble - by himself.

This time, however, he is in trouble - with no resolution in sight. The department has provided no further information on its proposed disposition. And Jenny is particularly riled by the arbitrariness of this bureaucratic outcome. It could just have easily been her

son as victim, and his colleague as offender. One boy is back at school, the other is languishing outside. Could Jim attend school in another city, or another state?:

JENNY: Yeah. But I couldn't send him to school until I knew what was going on, see?

If I sent him to school, I might be in trouble as well as him, see?

Q: Why's that?

JENNY: I don't know! I don't know how it works, I don't know what the hell's going on!

Q: Wouldn't the department tell you - if you went down and asked them the local department people?

JENNY: ...I never thought about it...I was just waiting for a letter. Because I wrote a letter away myself, see, and Mr C_____ said I have got to write a letter, and I wrote my letter to the school, and we discussed the letter, we discussed everything that was in it.

At this stage, the interviewer suggests that some active intervention may be called for. Jenny had not yet made direct representations at the source of the problem - a department that has removed a certain amount of discretion from school principals while leaving them as accountable as ever:

But you probably need to - yourself - put some pressure on them.

JENNY: It's a bother, though. It doesn't seem fair, I reckon...But maybe I should check it out...

Q: Do that. There's nothing you can lose. It seems to me that if nothing's happened over four months, a bit of pressure needs to be put on them.

JENNY: Like I said, the worst part about it is that...the boy that sort of picked the argument...

Q: Yes, it's not fair, and I know that he's also been in trouble for involvement in violent incidents...

JENNY: Yeah, well, I've met a couple of parents who've had trouble with him themselves...But the other boys just....That's what fixed Jim up - was picking the wood up...

Quite right. Jenny is bitterly disappointed at the way her son has been dealt with. The conference was an adequate means of responding to the incident, but a far more serious punishment - being deprived of an education - had already been decided upon elsewhere. Jim has a slightly different - perhaps more fatalistic - perspective on events:

Q: What did you think about during that conference - I mean, you'd been to court on a joyriding case...Would you have preferred to have gone through the conference process or the court?

JIM: Oh, the conference would have been better...than just going to court and that...

Q: Why's that.

JIM: Oh, you sort of muck 'round at court. I would have probably just got a bond or something.

Q: Well, your Mum reckons court's more serious because you get a bond.

JIM: Yeah.

Q: Is that not how you feel?

JIM: Oh, the court's not as serious as the conference.

Q: You got more out of the conference, you reckon?

JIM: Yeah. Court wouldn't have done much, just...oh, I wouldn't have worried about it. I just would have went in there and stood around - at court.

Q: You said you didn't worry about the conference.

JIM: It didn't worry me much either.

Q: So what was better about the conference?

JIM: Oh, well, we just got it over and done with quicker and that, you know. We're friends now. If we'd gone to the court house - would've made it worse.

Q: It would, eh? How, do you reckon?

JIM: See, 'cause we wouldn't have made up or nothing - any stuff like that.

Jim explains how he made up with Robert, and also how he spoke with Robert's parents after the conference:

Q: The question now is whether you can get back to school...But how do you reckon the police handled the whole thing?

JIM: Good. Good.

Q: See, I'm trying to work out - for the police - how to make these things run as well as possible. Is there anything...You know, if the police were to say to you, "How could we have done it better?", is there anything you could think of?

JIM: Nah...Nuh...I don't reckon they could have done anything better. It was better how it was, just going to that thing - going to a conference and that. Better than...'cause we would've went to court, or we would've went to someone's house and done it... [inaudible] It wouldn't have made any difference.

For Jim, the real problem remains how he is going to get back into school, and where he may now have to move to in order to get an education. His case stands as a poignant reminder that political posturing always has personal consequences.

CASE: STEALING AND TRESPASS - TROY (OFFENDER), SALLY (MOTHER) & SARAH (SISTER)

The conference to deal with this case was presented as case three in the previous chapter. The offender, his mother and his sister were all impressed with the process - particularly as they were able to compare it with the major alternative. The three interviews were conducted separately. Sally begins by explaining the reasons for a delay in dealing with their case:

SALLY: But I actually did get a phone call and Terry asked me with a bit of short notice would I be able to go down. I said no, that'd be okay, and so we went down but it was sort of a bit strange. 'Cause I explained to Troy, you know: "You only go here and then they'll decide on whether you have to go to court because you're not out of the woodwork yet. They just actually want to see what you're like".

Q: He would have been a bit worried ...

SALLY: He was. He was, but he was making out he wasn't because, as I said, he hadn't been in any trouble before...and actually, when we got in there, it was sort of scary. But I mean it was good to actually meet the victims and for him to meet with them to actually see how he'd affected their lives. As Terry asks them, you know: "How has it affected you, how has it affected..." - and it certainly did affect our home life. I got that way, I barred him, so that he was only going to school and coming home. That was a part of his punishment, because I was that way...he'd sort of betrayed my trust. It's been going well now.

Q: Did you talk about it before you went down - among yourselves - about what was going to happen down there at the police station in this family conference?

SALLY: Terry came out and actually told us that the victims would be there and what would be asked. So he'd sort of given me a rough idea but you're naturally a bit nervy, because you don't know what the outcome's going to be.

Q: And poor old Troy was grounded at that point, apart from going to school?

SALLY: Yes - that's fair enough - he knew that he had done wrong, that he shouldn't have done it. And that's what I mean getting - he was around with kids, too, that he doesn't normally get around with.

Given this line of argument, does Sally think it unfair that Troy had to take full responsibility for the theft? No, she says, he did it, and it was quite appropriate for him to be held responsible. An interesting twist is that his sister was accepted into a work experience program with the local police around the same time. She did that work before the conference?:

SALLY: No after. See, that's what she wanted, and she sort of said: "Oh, shame job!" That's just the reaction from her because, you know, you don't go and do them things. She didn't even dream of it! [laughs].

Q: It was really an interesting response. We've talked a lot about this process not only in Wagga but other places and always if there are Aboriginal women - at a conference, say - they'll come up and say: "You're the only whitefellas we've heard talking about this who make any sense because you talk about shame, which is what we talk about - and the rest of the criminal justice system just doesn't understand it". And so that was the first thing Sarah said when Terry asked her. He said: "Sarah, what do you think?" And she said: "Oh, shame!"

SALLY: Yes, shameful. That's what you think. You come out and say: "Shame!" You're just so shocked, and you wouldn't expect that person to do it, you know? Something happens, and it's just a phrase you use.

That phrase expressed the pain caused in several settings by the incident - within the family, at school, at work, and among friends. Sally explains how the family had discussed the matter. She also emphasises the empathy she felt with the victims during the conference. And she understands that they were doubly angry because this wasn't the first time that they had had clothes stolen from them:

SALLY: Yeah, but it gives them more of an outlook on it - to see who that person is who's stealing off them - especially when they're juveniles. And it makes them face up, just look at the victim in the face that they've actually taken it from. I reckon it's a good idea and it's a lot easier for the younger kids to go into something like this, rather than just being thrown into a courthouse - it's giving them that second chance, to say: "If you don't stop here, this is where you are going to end up". They'll really get whacked off after this. That's what I said to Troy: "You might go to court, the magistrate might be whacked off". I said, "you might end up down the detention centre. And that's where I really sort of scared him, when I gave him a talking to after he'd actually done it.

Q: But before the conference?

SALLY: Yeah, before. So he had those things going through his head. I thought, well, you know, we may as well be straight out with him. I said, we'll just give him a bit of a scare, and he might never ever do it again. But it's made him say he wished he never did it.

Q: But you say he felt really relieved after the conference?

SALLY: Yeah, he was. But I was glad he got more out of it just by sitting there and actually seeing how many people it had affected and to see how they felt and the way that they wanted it to go, and what they were doing. They were only working for what they had, what they've got.

Q: I thought they were very good. The thing is that many kids do this sort of thing, and a small number of them get caught. You can put these things into perspective without saying that what he did was okay.

SALLY: You sort of nip it in the bud before it gets out of hand, too.

Q: Yeah, but it does seem to make a difference.

SALLY: Yeah, well that's what he said - he said...he agreed to have the conference because he wanted to actually find out what Troy was like.

The point is made that Sally had been very supportive of her son - in the right way - during the conference. She had made clear her support for him without trying to justify, excuse or condone his actions:

Q: Did you discuss it much as a family after the conference?

SALLY: No - just going home after we left the conference - we had a conversation actually about the conference and that's when I said...that's when Troy felt...sorry about it. I said: "You should, you know. Because it's not right!" - because he didn't know that I'd had clothes taken off the line. I said that I know how they feel!

Q: I'm surprised you hadn't told him that before.

SALLY: No. I don't think it came out. It just sort of come back to me in there and how they were saying it and that's when I said to them: "I know how you feel!" He asked me about it then, and I said: "Well, you're mad, because you've gone and bought something, and you've put it out and you don't even use it because someone comes along and takes it!"

The details of the chase and of Troy's apprehension are discussed. Sally explains how she advised her son to make a clear and honest statement rather than exercise his right not to. In most cases, of course, a statement is provided:

SALLY: Yes, well that's what they said. He's been caught with the clothing and admitted that he's done it. People are saying, "Well how come he signed a statement?" They said, you know: "You shouldn't sign the bloody thing!" I said: "Well he did it", I said, "he admitted it to me so why deny it?"

Q: See that's technically a problem, isn't it, because I imagine in the tradition of the legal services, you know, you don't admit to anything until you've got lawyers there!

SALLY: Well he admitted it. He was caught at the scene of the crime, he was chased and then he actually said that he did it, so why deny it? I mean the evidence is there in front of him - and they were a pair of trousers. I had a think about that...and I said: "Are they the clothes there?" and they said: "Yeah". And the cops said: "Look at them!" - 'cause they walked out to do something and I had a go at him. I said: "Look at the top", I said, "it's way too small for you". And I said: "Look at the trousers, they wouldn't even go near your sister and she's at least a 10!" So I said to him: "Well, why did you steal them?" And he looked at me and said: "Oh, I don't know, me mate wanted a pair of jeans". I said: "Well, if your mate wanted a pair of jeans", I said, "what was you doing there?" "Oh, I liked the top that he had" Oh, gawd! I was just giving it to him anyway. The police were out of the room. Then they walked in and they must have overheard, and they said: "Yeah, we agree that they wouldn't go nowhere near him!" - so they definitely weren't for him to wear. I

knew straight away that he had egged him on - but it still doesn't excuse him; I mean he knew it was wrong so he had no right to do it.

The interview concludes with a discussion of how things are at home now, five months after the conference. Sally is pleased with the way they are all getting on. And as for Troy himself, she says "He gets a bit loud - but most kids do. He's pretty good...He's probably had a lot more self-esteem - since then". A subsequent interview with Troy provided an opportunity to test this claim. After the introduction, Troy is asked what was his first thought in the conference:

TROY: Just thinking oh...just thinking, "Oh...What do I have to do? I hope I don't see the people in here". I was thinking, "Would they be after me?"

Q: Would they hit you?

TROY: Mmmm. I was just thinking, "Oh....no!". I was thinking..."Oh - *shame!*" and that...when I walked in there.

Q: First thing you thought?

TROY: Shame ofseeing the people, that I took their clothes.

Q: That's what your sister said when she was asked....See, I thought in some ways - sure, you took the stuff - but in some ways it was a bit unfair, because you were part of a group...

TROY: Mmm.

Q: ..And you were the only one that ended up down there.

TROY: Hmmm [laughs]

Q: Did you think of that at the time?

TROY: I was thinkin': "Oh well, I don't know what I'm doing up here but I just want to get it all over and done with" - 'cause it was about two months or something when they told me, after. And I was thinkin': "Oh, how long's it going to be?"

Troy describes the descriptions on his movements during that time. He was not allowed to socialise after sport, and not allowed to go anywhere on weekends. And then the conference was convened:

Q: Well, what did you think, when you heard the point of view of the three people who lived in the flat? Come as a surprise to you?

TROY: Mmm, 'cause before that, beforehand, they had a TV and all that had got stolen or somethin'. And they said that the house got broken into and they'd moved somewhere else, and then I jumped the back fence the other day. And they were just feelin'....wimpy.

Q: How'd that make you feel?

TROY: Just felt really...sorry for them.

Q: Yeah, have you ever had...any stuff taken?

TROY: I've had my pushbike stolen and...

Q: Yes, I've lost a few over the years!

TROY: And ...and I think that's it.

As to his own record of behaviour, Troy was a little surprised by the extent of support offered him by the members of his family. He was particularly surprised by his uncle's support:

TROY: Oh yeah, when Nick said: "You wouldn't think..." - oh, it was sort of a surprise, 'cause I had like...We used to live over in M_____ with him. Not with

him, like, I always used to see him, I used to be like, I just used to be like just a little kid...walkin' around - armies and that there - when I was real small. Used to talk to him out there. And then I got goin' wild and stealin'...first time ever I'd been stealin'. And then, when he said that at the end of the day there...Just, I was too ashamed to say anything in front of him. I was embarrassed up there.

Q: You were?

TROY: Yeah, got shamed.

Q: You reckon it would've been better without them there?

TROY: Oh no, it was alright but...didn't really need my olds around.

Q: But it was your dad, wasn't it, said he wanted to give you a thrashing?

TROY: Hmmm.

Q: Do you reckon he meant it?

TROY: Hmmm, I don't know...probably. 'Cause when me dad picked me up right down at the station, I was there in the back seat and he's there talking to me, wise talk, you know, like that?

Q: Yeah.

TROY: When I come home...just went into my room. I just came back and went to sleep.

Q: He was probably a bit ashamed himself - probably.

TROY: Hmm, probably.

Anyway, the conference made a big difference, says Troy. He hasn't stolen since, and he has gradually regained his parents trust. They allow him to swap clothes again. He says he's not sure whether he'd intended to swap the clothes he stole:

Q: So you just weren't thinking when you took the stuff off the line?

TROY: Oh, I didn't, like I didn't think I'd get caught. Like I wasn't thinkin' what would happen. I thought - like beforehand, about a half an hour before I stole anything - I swore to stop talking to 'em and copying what they do. 'Cause when I was little, that's what happened to me - I stole down at the shop. Butter menthols.

Q: And you got ticked off. This was over in M_____, was it?

TROY: Mmmm. And the police never came. The lady just told me...Oh, just told my parents to come down here and they were talking to my mum and that...I was about seven or six.

Q: So they found out you'd...

TROY: Yeah when I was seven or six I got caught stealin'.

Q: You'd taken the butter menthols, and then they talked to your mum?

TROY: Mmm, and after about...

Q: What did she have to do with it?

TROY: My mum just went down there and was talkin' to them 'cause I was sittin' in the car and I had to go back in there and say sorry and that back to 'em.

Perhaps surprisingly, Troy says he didn't think of this incident during the conference, and only recalled it later. But the principle was the same in both cases - the apology was crucial:

Q: Did things change around the house at all after the conference?

TROY: Oh, my parents didn't trust me as much, like...Now they're starting to trust me.

Like I can go to a friend's house on my time now, talk to friends...

Q: So it's starting to get better again?

TROY: Yeah starting to...since about four weeks...ago.

Q: But the conference was some four or five months ago, wasn't it?

TROY: Yes, like I never used to go out - 'cause I used to play football all the time ...on weekends.

Q: Oh right. So it's taken about four to six months for your parents to start to treat you normally again?

TROY: They're trusting me more - heaps more - now.

Q: Oh good. So did you tell any of your friends about having gone down there?

TROY: Yeah. I told, like my friends that I used to steal beforehand. 'Cause they, some of my friends stole and that, but then I just told 'em what happened. They said: I'm not goin' to steal again, not goin' down there! Too ashamed!

Q: They said that to you?

TROY: Mmmm. Mmm.

Q: Why I mean so a lot of kids around town who swap clothes, they get the clothes off the lines do they?

TROY: I dunno - probably..

Q: It's alright. I'm not a police officer...I'm just interested...

TROY: They just like stealing!

Troy explains the attractions of stealing for some of his colleagues. Then he reflects on the value of the conference process for offenders and victims. He wonders what might happen now if he were to have a chance meeting with the people whose clothes he stole:

Q: What do you reckon you're going to say if you run into them?

TROY: I don't know. I'll just look at 'em, pass, wouldn't say anything.

Q: Wouldn't say hello?

TROY: I'd just say g'day...then I'd probably look at them...

Q: You've made it up with them, though, haven't you?

TROY: I don't know about that blond girl, sister or something - that other lady. The person with his clothes gone, he was good I reckon.

Q: It was his stuff, wasn't it?

TROY: It was his stuff I think, yeah. He was a good fella. He was good.

Q: You reckon the girls weren't too happy?

TROY: No, I don't reckon they were. 'Cause the girl said: "Oh, our house got broken into, then this made us all freak" - 'cause each time they hear someone, like people just hit the fence or something, they think it's someone...trying to break into their house.

It seems clear that the conference process has been a lesson in empathy for Troy. His sister, it seems, needed no such lesson. Furthermore, as a student of legal studies, she has since thought about some of the technical issues surrounding conferencing. How would she compare court with conferencing? Well, for a start, there is no professional judge in a conference:

SARAH: Well, like I didn't see any like that day, like in that one. It's only juniors, like he's a child and no-one else is allowed to go in there, except the victim. And he had one of those tapes and he taped ya and he just like, talks to ya and he talks to other people. Then youse, then him and his girlfriend and the girl that stays with him were telling what they thought about it and they made a compromise.

Q: Oh this is at the conference? Yeah I was actually there. I was actually down the back

SARAH: Yeah, yeah....

Q: Hmm. So what did you think about that compared to the court? Did it make sense to you?

SARAH: Yeah, and at that the court, like the lawyers go and get someone to come in.

Q: Right.

SARAH: And you all sit up the back, but they sit in the middle and the court gets 'em to stand and that and if he gets 'em to talk back they go either side, and he's up the top and someone below him actually types or just writes or something. And then there's one...there's a big table, and both lawyers get on either side and one lawyer sits there, waiting for their client to come in, and they just tell 'em what they done and he just reads the report and that and he just tells 'em, ah, like why they did it or somethin' and they get up and tell their bit, then the lawyers say somethin' and he just tells 'em, and gets someone else to come in.

Q: So did it seem like a pretty meaningful process to you?

SARAH: Hmm Yeah, ah...it'd be hard...Like you have to...they've got all these big books and he just reads it and that, but sometimes you're in there for ages like listening to one little incident - like one little case.

This, then, is a young woman's first experience of the children's court. Was it difficult to compare this with the conference process?:

SARAH: Yeah....it's different, going in there.

Q: See I noticed, you were asked what effect...all this had...had on you.

SARAH: Yeah, we were *shamed*!!

Q: Well that's the first thing you said.

SARAH: Um, in the court thing it's not like that...that other thing was better...than the court. Like - 'cause it was just, like, them people...But..

Q: You mean you were looking... face to face?

SARAH: Yeah! And in the court thing, you were up sitting behind them and you can, like, watch them and that - but, like, other people can come in.

Q: So you have to look the victims in the eye?

SARAH: ...Like...They shouldn't let other people come in and listen, but if it's like serious or kids like under eighteen and all that, other people are not allowed in to listen to 'em. Only, older...like...

Sarah is making an important distinction here between the communities of care affected by an incident, and the wider community of people who claim a right to be informed about the disposition of criminal matters. In less serious matters, she is suggesting, there is a strong case for privacy. She makes some additional comparisons between the two processes of court and conference. The real actors in court are the professionals, not the people involved in the incident:

SARAH: Yeah, like the lawyer tells what he did and the fella just says some stuff, adds some more bits onto it, onto what he did..

Q: So the lawyer does most of the talking?

SARAH: Yeah, a lawyer does most of the talking.

Q: And you reckon that 's better?

SARAH: Oh, it depends. Like, in a way it's better 'cause it sounds better. Like the lawyer saying it sounds better for him. Like sometimes when you say it they get up there...Like a fella, he didn't have a lawyer and he mucked up and he looked bad, and then, if he had a lawyer it would've sounded a bit better. But with Troy it was better that he did it himself, so the people knew what he was like and why he did it and that.

Q: Yeah. Plus I think your mother - she sympathised with the people who had their clothes taken because the same thing happened to her.

SARAH: Yeah, yep!

Q: So it was a bit of an insight for...for you as well?

SARAH: Yeah.

Q: To go along and support your brother and...

SARAH: ...and just listen...listen to what they've got to say, those other people in there.

Q: Is that why you went along - to support Troy?

SARAH: Yeah, support and just to see what the other people were like.....

So Sarah was interested in attending the conference in order to satisfy her own curiosity. But she had kept this to herself. And how would she feel now if she were to have a chance meeting with the victims?:

SARAH: Yeah, it wouldn't worry me, 'cause I haven't done nothin'.

Q: No, sure, but at the time you felt ashamed - and you hadn't done anything either.

SARAH: Yeah! But now it doesn't worry me.

Q: You got over the whole thing?

SARAH: Yes.

Q: Did you tell any of your friends about this conference process?

SARAH: No.

Q: And you didn't discuss it at home afterwards either.

SARAH: No, 'cause it was just a normal thing.

A final point: sarah has since done her stint of work experience with the police. Does she think she would have it in her to convene a conference? Did it look easy?

SARAH: No. It's a little bit easier. It's a bit harder, 'cause you're like, you're doing it yourself and you have to, like, go along and what they find if they want to take it higher, and then, in court, like the judge does all of it, but like the lawyers do most of it. So their job's like a lawyer.

Q: Oh, the job of the police is like a lawyer?

SARAH: Yeah, like a lawyer.

Q: So the role of the police is completely different?

SARAH: Yeah, the policeman is the same except for...I don't know - different?! Like he's more, like at there, he just talks to you and that. And at court, the judge, he looks at you and just like reads the stuff out more.

Q: What effect do you think it has, the judge just reading out the charge?

SARAH: The judge looks - like, when you go in there - he looks bad, like he looks really scary. But when you're going up there and talkin' in there, you're calm.

Q: In the conference?

SARAH: Yeah.

Q: Well, so maybe you didn't feel so bad about it after all?

SARAH: Like in the court it's alright, like you just talk and that - and they just observe you.

Q: When you were asked in the conference, what you felt, the first thing you said was "shame". Now in the court process, do you reckon you'd feel that?

SARAH: No, I just sat there and watched them. Just like sitting there and watching.

Q: Well, maybe that's one of the big differences between the two processes, you reckon?

SARAH: Yeah, but it would be embarrassing if you had to get up there, if you'd done something and you had to go and tell them.

Q: So, you reckon that it's a system that they ought to keep running down there?

SARAH: Yeah, for people to talk better. You talk better in the conference.

CASE: STEALING - KATHY (MOTHER OF OFFENDER)

The conference to deal with this case was again not recorded - although extensive notes were taken on it. The case was subsequently discussed in a conference paper outlining a psychological model of the interpersonal dynamics in conferences.⁵ Of the conferences that had then been observed as part of the evaluation, this was one of three in which the victims doubted that the offender or offenders had experienced genuine remorse and contrition. It was suggested in that conference paper that such impressions may have been incorrect. A subsequent interview with a close observer of one of these offenders was considered important. And Kathy was keen to speak - even though she, too, had doubts about the efficacy of the conference.

The interview begins with a discussion of Matthew's behaviour since the conference. He had been failing to turn up to classes, and just sitting, instead, in the school grounds. And this could not have been because he didn't like school, she says. Matthew has always liked school, and "has brains":

KATHY: ...as long as he uses them. If he's not going to use them, they're no good, are they? But..um...Oh, I don't know. One afternoon then they said that...he wouldn't come home. He went to school real good that morning, on the Friday morning, went to school. And the principal rang me up at the end of the day and said: Matthew's not coming home! He doesn't want to go home!

Q: He wanted just to stay on at school?

KATHY: No, he wanted to go to one of them refuges. You know those refuges they have down here, or somewhere in Adel - oh, not Adelaide! - in Wagga Wagga? 'Cause his friends were going there. He was under the impression that he could go there, get himself a job, still go to school - you know, a very strange way of thinking I thought too - and...be able to come and go and do what he wants to do.

Q: And that all happened, what, in the space of a couple of weeks?

KATHY: Yes, yeah, it got that bad, I thought: Oh my goodness...So anyway, we said: "Okay then", you know, "we'll...see what happens". And they brought him home [unclear], they came in the night - or somebody came anyway, with Matthew - picked him up from the centre or something. "Oh, I was going to take it down for you my son!" And after that he just didn't want to go to school anyway. You know, I thought well, I can't be there, on the bus, with him, to take him to school, sit down in all his lessons - I can't do that, you know. I said to him, I said, "I've got your other two brothers to worry about, instead of having to worry about - oh! - having to be with you all the time" - you know? - which does get very hard. But ah - he said he doesn't like us anyway, doesn't love us anymore, so that's why he'd been...He said he'd pinpointed that's why he's been doing this all these years.

Q: Playing up?

KATHY: Oh, well, he's been doing that since he was about six years old. I mean, usually you tell them when they're little: Don't do that, it doesn't belong to you! - you

⁵ D. Moore "Evaluating Family Group Conferences". Presented to the Australian Institute of Criminology Conference *Criminal Justice Planning and Coordination*, Canberra, April 1993. A version of that paper appears in D. Biles & S. McKillop (eds) *Criminal Justice Planning and Coordination*, Canberra: AIC, 1994 - but without the case studies.

know? You think they learn. But we took Matthew down to one of those - what do they call them? - psychologists? - or something to that effect - in Adelaide, and as he said, "He's got no conscience". Now I can't understand how a person can't have a conscience. Because you're born with it, aren't you? [laughs] Or does it just come about later on?

Kathy is keen to talk about this idea. She has had to live for the best part of a decade with the professional diagnosis that her (step) son has no conscience. She was concerned that the failure of the conference participants to follow-through with the conference agreement may have exacerbated his problem. She then describes his behaviour since the incident - how he had sought various justifications for his past behaviour, but had then run out of excuses and had made some dramatic changes in his lifestyle. Had he been behaving differently at home before he decided to return to his (birth) mother's place?:

KATHY: Oh... not really. Sometimes he'd sit, I mean, his father tried to talk to him, but...he sat there one night and Col said to him, "What are you doing this for?" I mean, it's alright if you can get an answer from them, but when they sit there and they say, "I don't know...I don't know" - you know, that's so nerve-racking, because they must know why they're doing certain things in the first place, you know? As we said, "Even if we've done something: Tell us!" You know, I'd rather my children tell me if I'm doing something so that we can at least try to rectify it - you know - in any way. It gets a bit harder when they get set in their little ways. But as he said, he said, "Youse are too goodie-goodies. Youse don't do nothing...wrong". "And son", Col said, "Well son, that means if I was to go out in the street and pinch a car, I'd be cool, would I?" - Matthew said, "Yeah!" He said, "I'm sorry son, but I've got no intentions of going and doing those things". You know? Col said, "Now look at my motorbike" - it was a different one at the time...oh no, he was talking about the one he was going to buy - and he said, he said, "Look at my motorbike. I get that home, I work hard to pay for it, and somebody like you my son comes along and just takes it. Well how's that going to make me feel?" - You know, just a shrug of the shoulders. More or less, "Who cares, Dad?" You know, but if it was his, it'd be a different story. So I mean, I'm not quite sure, because he had a Segamaster, plus he had a big...ghetto blaster, he got it last year. He had that, next minute we hear that...they were stolen. Now he says he lent it to his friends, and then his friends didn't give it back - 'cause he rang up here looking for the serial numbers and things like that. I said, "Matthew James, you should have all those things anyway, you know, why would we have'em if you've got the unit?"

But back to the issue of the conference and its aftermath. What exactly had the conference agreement been, and was it completed? The problem was, Matthew had offered to help find the missing wallets, but said he wasn't sure where he disposed of them. So was the money replaced?:

KATHY: I wouldn't have a clue. As I said, we never gave them nothing, Matthew never gave them nothing. Matthew didn't even do odd jobs, but then again, as I said, who would trust Matthew to go around and do their mowing anyway?

Q: Yes. So the conference agreements weren't really followed up - because I think there was some sort of understanding, wasn't there, that he'd at least try to ...

KATHY: ...yes, go around mowing lawns or something like that. No [sighs]...he went off without it. So as I said, that last little straw it was, that time when he didn't want to come home from school.

The issue of Matthew's various excuses and justifications arises. None of them were convincing. Did the rest of the family discuss the conference subsequently?:

KATHY: Oh...All Will said was: That was the most embarrassing thing we've ever had to go through - and he's not going through it again! [laughs]

Q: Sure, well, I don't think he'll have to.

KATHY: [laughs] I think if he gets caught his hands'll get chopped off! [laughs] But...I don't know. Matthew James did say that Will'll go through exactly the same thing when he goes to high school.

Q: So he was also blaming his peers at high school, was he?

KATHY: Well, more than likely. He said, "You've gotta do those things to be in with them". - And as we said, "I'm sorry, but I'd be the stupid one. I'd be the one that'd be bashed to a pulp!" [laughs] I'd be senseless...before I actually turned around and followed them, doing what they do when they...because it's wrong, you know. I mean, you can have your friends and things like that, but if they're going to do something wrong, well - as you should know yourself - you say, "Well, I'm not going to do that".

Q: Well precisely. I mean, he's blaming everyone but himself, isn't he?

KATHY: Oh, well that's true! [laughs]

Q: He seems to have blamed you, and all his mates at school now, for having misled him one way or another...

KATHY: Yes - and I never thought of it that way either!

Q: ...rather than taking responsibility himself.

KATHY: Hmm...But as he said, "Will'll go through exactly the same thing, Mum. You've got to be like it, you've got to be in there". Oh!...

Q: And had he said any of this before the conference?

KATHY: No.

To what extent, then, had Michael really thought about why he had stolen compulsively over the years? Kathy thinks that some sort of understanding was in his head, but that he "just didn't want it to come out". But how much did he really understand about his own motivations?:

KATHY: Yes well, as I said, you know, Matthew hadn't just done *those* things. He said nothing'll happen to him anyway. [laughs]

Q: What did he want to happen to him?

KATHY: I don't know. I suppose he thought, "Well, I got away with it". - Because over the years Matthew's done those things, and he's got away with it. You know, he's always been cool as a cucumber, as they say. But, um, he slips up, and then he gets caught out. But as Col keeps on telling him, "Look son, you do something wrong, and you get caught sooner or later". But he's thinking about the things in between. And that's what Col said, "Well, I suppose getting caught once out of...He might have done it *ten* times...That means you got away with it nine times".

Q: So it's worth doing?

KATHY: Yes.

The discussion turns to a moment in the conference during which Matthew's father had explained how disciplinary matters are dealt with in the military. It seems that what

really threw Matthew in the conference was that he was *not* harshly punished for his stealing on this occasion. That - and confronting the victims directly - appears to be what set him thinking about his own motivations:

KATHY: Or maybe he just wanted to get away from here. He said it was too boring, too boring for him here. "But son, you could go up there swimming all the time, but now you can't even do that - and we can't even go on the [military] base now, to the picnic area, to take you there"...

Q: Why - he's not allowed on?

KATHY: That's right. He wasn't allowed on the camp no more...after that. [laughs]
But, um...

Q: Well, so it's his fault that things are "too boring"?

KATHY: That's right.

Q: But he wouldn't accept that?

KATHY: Oh - he'd say, "I can't go walking in the street". I said, "Well, you know why that is, son? You can't be trusted to walk in the street without taking something that's not yours. You know? See, when you are given that little bit of leeway, what do you do? You go and steal something again in that respect. So you *want* to be caught".

Matthew had painted himself into a corner. He could really only stay at home, except when he was actually attending school classes. But in many other respects, says Kathy, Matthew has been a good son. He cares for his brothers - and she describes their interactions. Then she describes some of his other brushes with the law:

But as I said before, I said, "That Matthew James would be a great *only* child". You know? He likes to get all the attention. He likes to get all the things spent on him.

Q: Do you think that was one of the reasons why he's gone back to spend some time with his mother?

KATHY: Oh? - Well it could be!...I mean, she's more lenient with him; like she doesn't know his past record anyway. [laughs]

Q: Well I'm just thinking that here - and it's absolutely no fault of your own, of course - that he had painted himself into a corner. He was virtually imprisoned in the house because he'd ruined his own reputation in the local community. I wonder if part of the attraction of going back there was that he'd go back with a relatively clean record, if you like?

KATHY: Yes, probably. And I mean, she's pretty...more lenient with him. She lets him come then go. He more or less does the things that he wants to do, you know? Whereas he can go walkabouts in the evening, when it's night time or something, you know? And when he tells me those things, I said, "Well there you go son; you wouldn't have been allowed to do that here!" [laughs] As I said, you can't be too lenient with him and let him do this, that and everything else. He's got to have some...guidelines.

So has he begun to set some of those guidelines for himself? Kathy pauses, then says, yes, the last time he had visited he seemed clearly to have..."grown". He behaves in a more mature manner with his brothers, and is now getting on with his father. But Kathy can't understand how the conference can have had this effect, because Matthew was never made to carry out any work on behalf of the people from whom he had stolen. Of course, it would have been difficult to have fulfilled any such agreement, with Matthew banned from the base:

Q: What did you think of the response from the people who had lost their wallets?

KATHY: It was quite embarrassing! [laughs]

Q: For you?

KATHY: Oh yeah, for us it was very embarrassing., I suppose I put myself in their feet, you know. Because the simple thing is, I wouldn't like anything to have been stolen from me.

Q: But they weren't blaming you.

KATHY: No! That was right, too, they weren't blaming us. They put it down. It was Matthew that did it. And that was - oh! - that was a nice little relief in that way, that the finger didn't point at us, because I always think that it...points straight at the parents.

Q: Well it seems to me that, when you were at your neighbours' place once before and he'd come home in a police car, you were obviously quite embarrassed by that.

KATHY: Oh yeah, that's true! I don't like having the law...having to come around, you know.

Q: Yes well it's interesting; so many parents of young offenders say at conferences that they felt embarrassed in the conference - even if they felt it was a good process in the end, they really felt embarrassed. And yet the victims always make it clear that they're not blaming...they're certainly not blaming you. But they're trying to make the young person take responsibility for their behaviour. It seems as if the conference process left Matthew thrashing around for an explanation for his behaviour.

KATHY: Yeah, but he left us, didn't he?

Q: Well, do you think that would have happened otherwise?

KATHY: No, I don't think it would have happened. He was quite content with going on the way he was.

The conference, in other words, forced Matthew to reassess his direction in life. He may yet return to Kathy and Col, as Kathy concedes. And actually, she understands now why he left:

KATHY: Oh yeah, well I can see why he'd wanted to get out...

Q: Because he'd painted himself into a corner...although it didn't have all that much to do with you?

KATHY: Oh yeah, well that's right too, because, as I said before, he probably would have been doing still the same things if he was still here anyway. You know, we wouldn't have been able to have been fully...trustworthy of him, because we'd been through all these years...of...going through all this with him. But Geraldine, okay, she's given him a new lease of life, you know, where he can make his own decisions - do this, do that - and hopefully he never does anything bad...I mean, we always ask him, "Make sure you've been good, son!". Now I think we, more or less, say it in different ways. Like not saying, "You make sure you do this!" [laughs] I don't know, we've got different ways of putting a point across to him. Where it doesn't make him feel like, "Oh, you're telling me what to do again!" - you know?

Q: Oh, and you've made a sudden change in the way you do that?

KATHY: Oh, I suppose I've done that all the time, but I suppose with Matthew James, it's sort of...I don't know...different. As I said, going through what we've been through...

Q: It's been a pretty tough time for you.

KATHY: Well, it has been...He's been away, and he gets back and you think, you know, "What am I doing? There must be something wrong there"...And you think, well, "I don't know. The other ones don't do it...Just Matthew"...

Q: Yes, he was just looking for justifications when he says, "Oh, Will's going to behave this way too when he goes to high school".

KATHY: Yes, as I said, "No way, he's not going to behave like that!" I'll sure bash him then! [laughs]

Q: It sounds to me like he won't need a bashing. Only some kids do this.

KATHY: Yes, Matthew James, he's a different kettle of fish.

Kathy talks about the temperamental differences between her children. Three have now left, so they only have the two boys at home. That's pleasant - but they do miss Matthew:

Q: And he must miss you too.

KATHY: Oh well, yes, he might. But as I said, he's not a really emotional person. He's rather a...cold fish! [laughs] He's not emotional. But as I said before, he's going to hear from us...over and over.

Q: But that's not all that uncommon. How old did you say he was when Col and his mother separated?

KATHY: I think he was five.

Q: Well you often get that in kids who were at that age when their parents...

KATHY: Well, I don't know. It was years ago, and we tried to pull together. You would have thought that they would have overcome any...although I must admit, among the in-laws who saw what happened to Matthew...fought about him, you know, in front of Matthew and so on. And to me, you don't say those things in front of the kids. They're so...impressionable, you know. They think of all those other things. I suppose in that way, I mean, if Matthew had ever...I mean, my sister-in-law always used to say, "Leave him alone!. Poor little fellow. He's been through so much!"

Q: They'd forgive him anything?

KATHY: Yeah, yeah. And then I'd think, well, "That's enough actually. They don't have to pet him like a little dog." Poor little Matthew! He'd be good at home and he'd be getting other messages from in-laws. He'd be deliberately doing something wrong, and he'd look straight at me as if to say, well, "She'd let me". I'd hate that!

[A portion of the last part of this interview was lost due to a loss of battery power on the tape-recorder. What was retained contained more interesting observations about family psychology] Kathy explains again her concerns for Matthew's welfare before he returned to his mother's place:

KATHY: I think it's sort of, I think it's a relief to know that we haven't got to worry about anything...getting stolen, people coming to [collect him]...and hoping he doesn't go to jail and wishing he'd [stay at the home]...He said he wanted to go to the remand centre, or he wanted to go to the refuge.

Q: He wanted to go to the remand centre?

KATHY: That's where he wanted to go, yeah. He wanted to go there, or he wanted to go to one of those refuges. So I said: No...He wanted to go to the remand centre, because they've got a swimming pool, and they have fun, and all the things available that he'd been refused...It wasn't our fault!

KATHY: Yes, give them a holiday until they get out. My daughter [talked about a colleague who was sent to the remand centre] And he said, "Now I'm on a holiday. It's just like a big holiday, you know, and camp"... and they come back. She said, "That's the way they look at it".

Q: Because they haven't been confronted with the people whom they've affected?

KATHY: Probably. But as I said with Matthew, you know he's about sixteen....They're all the same. They get caught, they go to court, they get a bond, or they go to camp or something.

Kathy talks about a relative who had done time over the years, and what it was that eventually prompted him to stop offending. Then she reflects on where Michael is now, and what the future might hold for him:

Now I think about it, that conference might have done lot of good. I didn't think so at the time, but talking about it now, you know...

**CASE: LARCENY AS BAILEE - DOUG AND LILA
(VICTIMS AND MOTHER AND FATHER OF THE OFFENDER)**

The conference to deal with this case was the first case presented in the previous chapter. Again, it was unusual for several reasons. First, the victim was also the father of the offender. Second, and as a consequence, the conference had more in common with traditional mediation than do most conferences. Third, some of the participants in this conference appear to have been involved in a range of other criminal matters - some of them more serious than those at issue here. Finally, Doug had spent many years in boys homes and jails, had thought a great deal about crime and punishment, and was more than keen to talk at length about the family conferencing.

The interview begins with Doug explaining a bit about his background. He says that he was deeply impressed by the idea behind the conference process, but was less than impressed by the investigating officer. Why was that?:

DOUG: 'Cause he fucked up the whole case. But getting back to the bloody...the boys home bit. Ninety-nine percent of crims start there, in the boys home, not on the streets. You get street wise...but when you get from the boys homes...you build yourself a macho image...and you've got to live by it. So you build your wall then, so coppers are pigs, and you live by that rule...and...there's no other way you go. You know, I could sit here and talk shit to you all day but I don't talk shit and I won't talk shit to the pigs. Now they know me, and they got me record, you see. Now that was great for me daughter having that interview like that...but there was so much shit, lies...you know and you wanted to say what you really felt but...after you've had a lot of trouble with the coppers and that...you draw the line. You know?

Q: So there were things you just wouldn't say?

DOUG: That's right. I wouldn't open my mouth and I kept telling them, "Listen, just shut up". You know, you see?...But...I see in the long term for other kids, if the kids are willing to do it. And to teach young kids...to pull out. But this is where your main problem lies with your kids....and that's where you breed your crims, from the kids and the parents, you know. 'Cause you get the welfare, they step in...My boy went and knocked off this joint, and I could see where, in the long term, he would go. So I took that boy of mine - not this one, a bigger fella...- twenty one now - to the cop shop and told, made him tell them what he done...He got a bond, great...but how many people...that he has never ever since then got into that sort of trouble. Speeding, yeah, fuckin' traffic offences, that shit. But you know, there's not many people that would do that, they'd say: oh, fuck him, let him front the courts, the

cunt's uncontrollable, forget him! Then he goes away to the can and does fuckin' six-to-whatever months. He comes out so he's got a fuckin' dirty on whoever put him there...And that's where his fuckin' hurt lies, and you cannot change it. You can't, cops can't, no one can. And that's what's wrong with the whole fuckin' system. It's there. So youse are on the right track, youse are on spot on fuckin' track. Its about time...that someone was willing to get out and fucking try this.

Doug is asked whether he is surprised by political opposition to the conferencing program, opposition that is critical of the police role in the program. This suggestion prompts a paroxysm. He offers his opinion of other professionals in the justice system, praises "that big copper" O'Connell - "I can see where he's coming from" - and suggests that the beauty of the program is in its potential to change the police as much as the other conference participants. They may stop trying to control a world that they don't even understand, he says. Doug explains how he gained his understanding of this world, having his first brush with the law around the age of eight. And like everyone else, he was scared when he was first sentenced to detention:

DOUG: And the coppers don't make it any easier, you know, like right oh, saying the kid's caught - right? - straight home to the fuckin' parents, see what the fuckin' parents are like, are the parents home? What's their fuckin' background, what's their fuckin' attitude on it.

Q: What, they come along and make judgements about the parents?

DOUG: You see?

Q: Yeah, yeah.

DOUG: And have the kids sit there. I don't mean talk shit, talk the truth...with his parents there. And let him say what is in his fucking head, and what the parents are doing in a roundabout way. Not because the kid wants to get his own way or get what he wants. Be fair dinkum - and youse will win, otherwise...That's what I said to Terry O'Connell the other day. He rang me up, he said, "What do you reckon about the meeting?" I said it was fucked, because you can't, couldn't say what you wanted to say. Because if I had said what I wanted to say there would've been a fucking blue in there.

Q: What do you mean? People thumping each other?

DOUG: Yeah, there would've been a blue between me and them. If not then, later.

Q: With whom? With...

DOUG: Others.

Q: Simon's father?

DOUG: Yeah, 'cause he's a turd.

Q: Yeah, I got the impression he was sort of saying...

DOUG: He's a smart...

Q: ...'What I say is the real version of what happened and everything else...". Did you get that impression too, Lila?

LILA: Well, I knew it.

According to both Doug and Lila, the investigating officer simply had no idea of the complexity of the case, and had been duped by the other parties with whom he was dealing:

Q: Well if you go back to this incident then - I mean, you know, the one for which they held the family conference: If the process itself was "fucked", as you say, then what would you have done instead? I mean, the real problem was that, from your point of view, they were lying - wasn't it?

LILA: They were.

Q: Okay, they *were* lying.

LILA: Yeah.

Q: But I mean, how *else* should Terry have run it then? Come on, what do you reckon Lila?

LILA: Well I couldn't exactly answer your question because I knew what was going to come down. Because, practically, if you're with a family situation and you want to stay with a guy that bad, you'll lie and you'll cover up for anything and everything.

Q: Yes and her story was inconsistent, but...

DOUG: Yeah, but see I couldn't go on with it. I was..

LILA: You couldn't say what you wanted to say.

DOUG: I was in a knot, I wanted...I was hurting.

Q: Yeah, that's understandable.

DOUG: I was fucking ripped open and for two bob...

LILA: And she comes out with things she knew herself weren't true! I had her boyfriend knock on our door saying we locked our daughter in the fuckin' bedroom!

DOUG: These people reckon we imprison our daughter, and I would never do that to one of my kids. I live for my kids!

Both Lila and Doug relive some of the anger and distress they experienced during the conference. Doug explains that certain aspects of the case were never made clear to the police. There had been bribes and threats and cover-ups:

DOUG: But what they done is, the bloke he sold the horse to wanted him, wanted the horse. So they manipulated...for her to sell him the horse.

Q: And who took the money?

DOUG: She did - two hundred dollars.

Q: Two *hundred*?

DOUG: Two hundred dollars for a fucking two *grand* horse

Q: That's what I thought.

DOUG: This is why I was dirty on them, because my main dirt was that, that fat turd ripped my daughter, ripped one of my kids. You see...

Q: Which is why you wanted him charged?

DOUG: That's right...'Cause I wanted to hurt him...back.

The plot thickens. Other issues that weren't mentioned in the conference are revealed. Their daughter was pregnant, and so felt obliged to stay with the family who had wronged her and her parents. And then there is a suggestion of illegal substances being traded. As Doug puts it, "Heavy fuckin' shit - and the coppers reckon they know what's going on around them!" But the conference system is a good one, both say, because it allows parents deal with some of the trauma they experience when their children are involved in illegal activity. The process encourages people to talk about issues they wouldn't normally discuss. Doug suggests that it is crucial for people to talk more openly and honestly - in order to counteract the effects of a perceived social breakdown:

DOUG: And that's where...that's where a lot of the kids are coming from. A lot of your crims, now...are coming from stepfathers and stepmothers. One kid comes here, he's twenty one year old, he's got a step mum...

LILA: Twenty five.

DOUG: Twenty five...and he fuckin' literally...hates her. I can see that kid...I can see that kid, one day, shooting her...He's a member of the pistol club, he got a forty four magnum...he got a twenty two, two fifty high powered rifle...He got a twenty two fully auto pistol...now if he decides to...crack - they go off - fuckin' blood running everywhere, you know? But the coppers've got to change their way and Terry - no shit, not just trying to suck yer arse or anything - he's a top fuckin' bloke in what he sees. What he talks about, I can relate to...But he has got to change the fuckin' way of the young pigs.

Q: Yes, well, that's what he's trying to do. He wants to change...he thinks this is the way to change the system. You get people like the other officer you had in there...listening to how you can deal with things completely differently.

DOUG: Yeah!

Q: He wants to put, you know, he wants his colleagues in there.

DOUG: Yeah.

Q: And they're the ones who should be learning lessons?

DOUG: They're the ones, that's where your trouble is, because they go out in the street with a macho fucking image. When they get a kid....

Q: Well they are young guys, they're young guys, you know, who've just got a uniform on...

DOUG: Yeah, and they think they're fuckin' up there.

Doug describes the build up of tension in street politics, as young police confront younger people. Respect, he says, has to be earned; it can't be demanded. And it can be earned most quickly with direct and honest talk. He gives examples of confrontations that might have been avoided through dialogue. He talks of the rules to survive on the street in the big cities. And he talks of the techniques required for psychological survival in prisons. He has used similar techniques in dealing with the people who, he feels, have wronged his daughter. But many of the surrounding issues remain unresolved, and Doug reiterates his annoyance with the role played by the officer who investigated the case:

DOUG: Yep...you see, why, fucking why? Because it was a fuck up...they know it was a fuck up, he come to me and he said, "Well I'll put in an order...with a higher bloke for you to receive five hundred dollars compensation". He was pissing in my pocket. When this horse deal thing was going on, I went early to issue the summons against V___ to have him charged with horse stealing, right, which I was quite right to do...For which me daughter would have been classed as an accessory, right?...Will fucked me around. He said he already issued that summons on that bloke where he never done it.

Q: Is that why he accepted the horse in the first place - thinking: because your daughter was involved and would be an accessory, you'd never press charges?

DOUG: Yeah, right...So he did not lay the fucking...summons on that bloke until this was just about finished...you know. He left the fucking horse at the place where the horse should've been fucking impounded....'Cause it was stolen property, right...They had to keep coming after me where the fucking horse was...You know, it was all fucked and that's what happened, then they said that Will P___'d resigned Bullshit!...I think he got two choices, sacked or fuckin' resign.

Doug explains some of the other activities that the other party to this dispute have been involved in. He explains why they have had to leave town, and the circumstances under which they left. Lila wishes it could all be resolved:

LILA: There's too much of it going on; there's too many families getting hurt.
DOUG: Getting back to your meeting and stuff like that, it's great if youse can get it working for you. But in my case...
Q: It was too complicated?
DOUG: Yeah. It's good for...
LILA: It would never have worked. This is what I tried to say to Will, there's no way known that it was gonna work for us, but I couldn't get it through to youse.
DOUG: The people from the other side...
Q: Yeah, but then, I mean, was going to court going to work for you? Because...
LILA: We didn't want it to go to court, 'cause she's our daughter.
Q: Yeah.
DOUG: No, I wouldn't've took it all the way...
LILA: See they know we love our daughter.
Q: It turned out to be a better option than court - even though it was about a hundred times more complicated than most cases?
DOUG: Yeah it was...you know, and he knew that, and the other bloke with the horse, he knows he can't fuck with me now.
Q: So you have sort of half-solved one of your problems?
DOUG: Yeah.
Q: - which I don't think they went out to solve - which was this V____ character - who sounds like bad business -
DOUG: Yeah.
LILA: Well he is very bad business, he's bad news all the way along the line.
DOUG: No, he uses people, he manipulates people, he fuckin' sells them dud fuckin' horses...

Doug explains the nature of this person's role in the local black economy. A very complex network of reciprocal relationships and deals is described. He then talks about what experiences encourage or dissuade young people from serious involvement in illegal activity. He talks about individual psychology and social circumstances. Lila raises the issue of departmental interventions in families:

LILA: If you're cruel to your kids, fair enough they deserve something, but if you're a good parent to your kid, that's different.
DOUG: It still goes back to the same thing - the fuckin' stepfather relationship...If he has a kid, if he has a kid to that women, she will even push her kids away to keep with him and put his kids...it happens, you will find it all the way...all the way through it.
Q: with so many of these kids who end up in the conferences, you can see the day they went off the rails...They say themselves, "I don't know why I started going crazy". But when you hear their story, you know exactly why they started going crazy.
DOUG: Yeah!
Q: ...and its being rejected...
DOUG: Yeah, that's it, ninety nine percent of it...you know. So the coppers are not going to come and help them come and put pressure on them...Youse are only gonna flog your head against the wall...so...
Q: Unless you say - as Terry's trying to do - he's trying to show his colleagues that...
DOUG: He's frightened by the fucking lions...you know?
LILA: I can't see him actually winning myself.
DOUG: He can, he can if he fuckin' persists, if he gets enough behind him to do it.

Doug suggests that the police may need to ask former inmates to talk about what does and doesn't work in criminal justice. Again, he says, one has to understand the psychology of individual motivation:

DOUG: Someone out there wants me, and you'll find that even with the lifers in there...that's all they want. When they get married in jail, they know they're not going to fuckin'....go out. It's that fucking letter. That letter that comes, and that's what holds them. Yeah, oh fuck yeah. I've seen it, done Pentridge. When I was down there, a wog kid come in...got into a little bit of strife, only a young bloke - first timer, he shouldn't have been in the slots...And they've jammed him in...His mother and that, well they're very close - you know, Italians...And they've laid this on this kid. The screws said, "Oh, fuck him...get to yourself!"....you know. I said to him, I called the screw, "Hey boss, if you want to double that kid tonight because I don't think he'll be here come morning". 'Cause you could see him really fucking done, so anyway the next morning his cell was just there, I heard a noise during the night, and next morning opened the door and he was hanging with his blanket. He was dead as fuckin' crumplet...You know. I've seen blokes cut up, just sit there, I've even done it, slashed me wrists open...Swallowed knives and forks...had me guts opened up to get through hurt. Hurt in-fucking-side where the...system...There is no help...they say there's help, there's no fucking help...Because they don't give a fuck. So when kids go in there...They go in there with the expectations of they are going to get help, they're not going to get help, their gonna get a fuckin' porno movie chucked on the fuckin' video. Which happens - all the time.

Doug describes the experience of being in a jail riot, and the sorts of conditions that prompt such riots. There are seasonal fluctuations of tension:

DOUG: Yeah, and that is when the fuckin' jail is at its highest peak...of fuckin' trouble. You know like...We...us old fellas that have rioted, years and years ago we have rioted for the fucking crims of today. To get their phones - we've had our guts, I had me...look I've got hardly any teeth, you know - you see the scars on me, I don't mean men that fuck around, they fuckin' give it to ya - but we have got them what they have got now...you see. I have been in riots.

Q: But hold on, Doug, you were saying that, down at the detention centre, that they have got it too easy...

DOUG: Yeah, but...

Q: Isn't that a contradiction?

DOUG: It is, but it shouldn't be like that so...yeah, a *few* things, but then the government says, "We've got them here for such and such a time"...So...the government says, "You can have your Breville cookers, you can have your electric jugs"...They never draw the fucking line when it started.

Q: Oh, alright, okay.

DOUG: You know? They just let them, as long as there was peace and quiet, they were happy...until, when Goulburn rioted, they said, "Fuck youse!" and took everything, and that's when they rioted. Because it was like taking a toy off a kid...Because in Goulburn you get locked up at half past three...and you don't see no cunt until the next morning...say about half past eight, half past nine. And you're in that cell on your own.

Q: Working away in here...

DOUG: Yeah, what yer gonna do...all that. It fuckin' just eats and eats and eats...and that's what happens. But....

Q: That's a particularly violent place, isn't it?

DOUG: Yeah, you know... See, so...the coppers can keep sending young blokes to jail all their fuckin' lives but it's just a matter of time...you get that odd bloke he'll say, "Fuck it!" and shoot it out...So it's a...but as I said you know, you can...Youse are on the right track. But you...Terry has got to get both sides as well, before he gets the crims to work for him, he's got to get the coppers as well....to do it...

There is further discussion of how to encourage compliance in young people, how best to deal with those young people who are offending, and how social dislocation is continuing to traumatise young people. Doug and Lila both speak from bitter experience, and both reiterate their praise for a process that encourages openness and honesty - even if that process failed to resolve all of the problems of their particular case.

CASE: INDECENT ASSAULT - ROWENA (VICTIM) & FRAN (MOTHER)

This was a difficult case for several reasons. At the time, the chief difficulty was arranging a time at which to hold the conference and arranging the attendance of supporters for the offender. For unrelated personal reasons, the conference had to be brought forward, which inconvenienced some of the participants. Furthermore, the dynamics of the conference were adversely affected by the absence of key supporters and, in retrospect, by the concern of the coordinator to compensate for their absence. However, this was a difficult case after the conference, as well. All parties wanted the issue to be dealt with this way - and despite any lingering concerns, still thought it preferable to any other alternatives. However, news that the case had been dealt with by way of conference reached various officials - first local, and then metropolitan. What followed was an apparent attempt to make this into a *cause célèbre*. Certain agencies apparently wanted the offender to be dealt with in the harshest possible way - though the offence itself was *technically* minor. Without going into details that would allow the case to be identified, it was clear that disrespectful behaviour surrounding the offence was as harmful as the offence itself.

This is not the place to elaborate on these issues. It should be noted, however, that the interviewee reveals - halfway through this interview - that she had that day received a formal briefing on what she was to say to the researcher. This is a good illustration of the fact that researching politically heated issues can be hazardous - and statutory bodies unprincipled. Their official line is clear during the first half of the interview:

ROWENA: Well...I would have preferred him to have to have gotten charged, to have a record.

Q: You would have preferred him to have gotten charged? And to have...gone before the court?

ROWENA: Yep - but I wouldn't have wanted to go...

Q: You wouldn't have wanted to go to court yourself?

ROWENA: No.

D. So you would have just preferred to see the end of it?

ROWENA: Yep.

D. Why is that - because it's been such a hassle since then?

ROWENA: Mmm (tears)

Q: (pause) Do you think that would have cleared the thing up?

ROWENA: Well, he seems to think he got off...scot free...and everything was real easy, and...

Q: Has he said that to you - afterwards?

ROWENA: Yes - he said that to friends of mine.

Q: But not to you?

ROWENA: No. I won't speak to him.

There are clearly unresolved feelings here, and these are compounded by ongoing issues in the social politics of high school. Rowena describes a conversation she has had with a friend who had been involved in a similar case. They had agreed that some sort of community service might be appropriate for the young men responsible. She then suggests that perhaps something harsher might make her feel better:

Q: You'd have preferred to have seen him locked up?

ROWENA: Yes - because at least he'd have realised what actually happened.

D; What about the conference itself then? In the conference he *seemed* to say...that he genuinely regretted what he'd done.

ROWENA: I reckon it was just a put on.

Q: You reckon that he was just acting?

ROWENA: Yes.

Q: What about his father - his father was there, wasn't he?

ROWENA: Yeah, his father - he was pretty upset and everything.

The problem, as Rowena sees it, is that Robert's father expressed the remorse that Robert himself should have expressed. Furthermore, she feels, the conference coordinator overcompensated for the absence of Robert's mother from the conference:

ROWENA: Yeah, but I think like - the officer that handled it was, like, real biased towards Robert.

Q: Which officer was that?

ROWENA: Terry O'..Connell?

Q: Oh - the police officer?

ROWENA: Yes - because, well, he was friends of the family.

Q: You think that affected the way he dealt with it?

ROWENA: Oh...he just kept saying Robert was, you know, a real good kid and everything.

Q: In the conference?

ROWENA: Yes

Q: Hmm - that's actually part of the way he runs them - to make a point...I suppose what he's trying to do there is to explain that...because someone's done something that's seriously wrong, doesn't mean we shouldn't give them a chance to apologise. But what you're saying is that you think *he* was acting? Do you reckon his dad was acting too?

ROWENA: Oh...no!

Q: He was genuine?

ROWENA: Yes...I reckon he was.

Rowena suggests that other participants felt much the same way. Because of the imbalance in numbers - and the consequent concern not to be too harsh on Robert - other participants also felt that the conference was convened essentially for the sake of

the perpetrator rather than the victim. would she have preferred to have had the matter dealt with in court then?:

ROWENA: If it was in a court or something like that I wouldn't have wanted to go along ..but I probably would have in the end...But I wouldn't have wanted to.

Q: What if the result had been the same in the court, if the court had simply said to him, "Well you just have to behave?" If they'd put him on what they call a bond - a good behaviour bond - how would you have felt about that?

ROWENA: The same way...

Q: As you do now?

ROWENA: Yes.

Q: So the only thing that would have made you happy would have been if he had been locked up - or at least given orders to perform community service.

ROWENA: Some sort of punishment...

Q: Some sort of punishment - fair enough. Is that what your parents felt about this as well?

ROWENA: I think so - yes.

Q: Hmm. Well - the other thing that came up in the conference was that there are other incidents like this at the high school. It's part of the way that boys give the girls a hard time at high school. I suppose that one potential of the conference is to send a message to the other kids who were there...that that sort of thing has to stop generally. Do you think that there's been any change in the attitude towards you...

ROWENA: In our school? As a whole there has...There's a lot of people that...like, everyone knew about me. He went and told the whole school.

Q: He'd done that before the conference?

ROWENA: Yeah - he went and bragged; that's how it all came out, how the teachers heard about it.

Q: I see. Didn't other people say at the conference that there were other guys carrying on in this way?

ROWENA: I don't...There were heaps...around our school. Since then...the teachers, if there's anything like offensive language, you can get into serious trouble...so it's cut down a lot.

Q: So you reckon that's come mainly from the teachers clamping down on the way kids are behaving?

ROWENA: Yes, at school...

So there has been a change in the official culture of the school since the publicity surrounding this incident. Has there also been a change in the relationships between the students with whom Rowena is friendly?:

ROWENA: Yes, because we were all in one big group and that was why...we decided to split up for a while...but now we're back together again...but then, like, I'm closer to a lot of them now...

Q: To a lot of his friends?

ROWENA: Well, they were always my friends...and now I've sort of come closer to a lot of them.

Q: That's quite interesting, isn't it...Where does he stand in relation to those people who were your friends *and* his friends?

ROWENA: They...don't think it's right or anything. They know that he shouldn't do that. It's just that they...as a friend they're still going to talk to him...but...like, they're still the same to me.

Q: Didn't you say at the conference that part of the problem was that people were treating you as if you almost deserved it or some rubbish like that?

ROWENA: Yep.

Q: And has that changed?

ROWENA: Yes

Q: And it changed almost immediately after the conference - or over the last couple of months?

ROWENA: Over the months...Like the school's done a lot.

The discussion turns to the details of developments since the conference. Rowena begins by describing her feelings when the conference concluded:

ROWENA: I felt angry when I walked out.

Q: Angry?

ROWENA: Yes.

Q: Did you want to say something at the conference about that? It's a difficult position for you to be put in though, isn't it?

ROWENA: Well, like he asked me, "Do you hate him?" and I said, "No". But really I do...

Q: So you wished you'd said yes?

ROWENA: Mmm. It was just that, like, I couldn't say anything to him, 'cause, like, his Dad was there and...(tears)

Q: Yes, well other people said the same thing actually, didn't they? Was it one of your friends who said the same thing - they hated what he did but they didn't hate him?

ROWENA: I think that was Darren - because...they're friends.

Q: And you would have liked to say, "I hated him?"

ROWENA: I just felt like I couldn't say anything.

Rowena describes how this feeling was not confined to the conference - that she had been made to feel guilty after the incident, and that it had taken a long time for this to subside. Everything had been improving of late, but a series of recent incidents involving friends had shaken her self-confidence. And then, today, she had been asked to leave class and meet with a public official:

Q: This was your...?

ROWENA: The counsellor.

Q: So how often have you seen her since the conference?

ROWENA: I haven't

Q: You haven't ?

ROWENA: ...seen her once after - I was supposed to go but I didn't...didn't want to...

Q: Didn't want to see her? Why was that?

ROWENA: I didn't want to talk about it.

Q: Fair enough...It's just bad luck in a way that she came over today!

ROWENA: Yeah! (laughs)

Q: So - what did she say today? You've written some things down there?

ROWENA: Yeah, I've written some things out because she wants to give it to...I don't know, somebody, so they can have a look at it and see what I thought. I don't know some criminal or...I don't know! She asked me to write it down. (pause. laughs)

Q: (laughs) Okay, so - that's what *you've* written, or *she* suggested?

ROWENA: I wrote it down...

Q: And it's just what you've told me about?

ROWENA: Yep.

Rowena now tries to sort out what she had wanted to say from what she had been directed to say. Her suggestions are insightful:

Q: So you think that if the officer running the process knows either of the people too well, they should get someone else to run it?

ROWENA: Yes.

Q: And in cases like yours, where you were quite understandably upset about the way that this guy treated you, and the fact that he's still...not exactly bragging, but he's just not treating you well...you think that, if he'd had a community service order or something like that, that he'd be...behaving differently towards you?

ROWENA: Yeah - just something to make him realise what's really happened. He just treats it...stupid.

Q: I noticed during the conference, his father was carrying on almost as if he was the one who had to apologise. Did that strike you?

ROWENA: Not really...I don't know...His father was...thick [?]

Q: You mean, he stuck up for him too much?

ROWENA: Yeah well...at school and that...His parents have just had a ...divorce - and I got blamed for that.

Q: You got blamed for that?

ROWENA: Some people said that it was because of me. But it happened before...

So there are a range of complex issues extending well beyond the specific case for which the conference was convened. Rowena's criticisms of the conference itself are twofold: One, that the imbalance in numbers - more supporters for the victim than for the perpetrator - led to a recasting of the perpetrator as victim, and this, in turn, made the victim and some of her supporters angry. Two, that some sort of tariff was not imposed on the perpetrator. Rowena's mother had similar concerns about their particular conference, but certainly supports the principle of conferencing. The interview begins with a discussion of perspective-taking:

I think Rowena's found this too - with Robert; it's all about the way it affected him, not the way it affected her...

Q: Rowena seemed to think that - in the conference - that he'd just acted his way through the whole thing, that he almost knew what to say, that he thought he got off...

FRAN: Mmm, well I think he got off *very* easily...I thought the conference was very good. I think it's very good to keep kids out of the court system...but also, I felt that Terry O'Connell had too much influence on Robert's behalf; he kept saying that Robert...was a good boy, who just wouldn't normally do things like that...and we walked out and we felt really...we felt that he was just all for Robert...We heard so many times how good he was at [football] and that he was usually a really good kid and you know, and this and this and this...I think at one time I spoke out and said, "Look, you know, he needs to know right from wrong"...While we were there...like when Terry said, "Well he does know right from wrong" - well he couldn't have known right from wrong...

Q: So you think that Terry spoke for him...

FRAN: ...too much!...It should have been Robert and his father; Robert and his father should have been speaking for themselves.

Q: Yes. Well, the other thing I noticed about that particular conference was that his Dad spoke...*for* Robert. That struck me as unusual...He was almost carrying on as if he was the one...

FRAN: ...on trial. I mean, Robert hardly said a thing. I know it's hard for him...And I really felt - I know, speaking to the other kids, they felt that Terry was too overpowering with them - Terry made those kids clamp up...more than...because when they went there they were going to do this and they were going to do that and they were going to do something else. But actually, we weren't game to say anything...You know, Terry said to one of them, "What do *you* think?"

Q: You reckon he asked them the wrong way?

FRAN: Well, I don't think he...I think if he had've said to the kids, "Well, you have your say", I think the kids would have come out and said some more...

Q: You reckon they were shocked by...

FRAN: ...by saying, "What do *you* think? Do you think it's right or wrong?" I mean the kids knew what was right or wrong...but they weren't prepared for this policeman. You know, one of them said to me, they felt that they were being interrogated...and Robert...Well, I think that it'd work, right; what I think should be changed is...maybe...a woman...

Q: ...in a case like this?...

FRAN: ...in the part that Terry had, because women are more sensitive to children than what men are. I'm not saying that Terry's not but, you know, a woman would have looked at it...

Q: Well actually, in that case, didn't you have the officer who was dealing with the case, Gabrielle...

FRAN: Gabrielle, yes, but Gabrielle didn't say very much because, you know, she said it was her first one and...

Q: But I mean, would you have been happy to have seen her running it, for instance?

FRAN: Well she was dealing with the two kids. Maybe the police officer who takes their statements, that took the two kids down to the station...maybe whoever takes their statements...maybe they should be the one...and they have Terry or another higher police officer behind her or something...

Q: Behind her in the room?

FRAN: Just in the room...but not...doing the firing of the questions...I think you get a lot more out of kids...

Q: Yes, that's quite interesting. Of course, there's a big debate, with these sorts of processes, about whether you should have it as formal as possible or as informal as possible. Some of the studies suggest that, on balance, people prefer things formal. But then other people will say what you're saying, which is that the problem with that is it..."clamps people down".

FRAN: It clamps them down, I think! Those kids just clamped up like anything...and then when they got outside, when we walked outside...they said, "Oh, he got off easy, didn't he?" And that bit of paper that Robert had to sign, you know, that Robert had to say he's sorry for it? Now to me, well...a written apology is a written apology by the person, not a piece of paper that's been photocopied and signed at the bottom...

Q: So the standard form is wrong?

FRAN: It's wrong. I mean, it's got to come from the person. If he wants to, like...If I want to apologise to you I'd walk up and apologise to you; I wouldn't have a form...and I think Robert should have been made to write a handwritten apology...

Q: So he didn't give you a handwritten apology - and he hasn't written one since?

FRAN: No...The only apology we've got from him is...that piece of paper...which Rowena brought home and threw on the bench and said, "Well, that's a lot of rubbish, isn't it!".

Q: She was angry about that...

FRAN: She was angry about a lot of things...

Fran suggests that her daughter is still feeling resentful about Robert's actions. She talks about appropriate tariffs, and how she feels Robert was shielded from some of the educational effects of the conference. She has some suggestions about preparation of participants prior to conferences. Her main concern is that some documentation describing the process be provided to participants beforehand, and that a link be established between coordinator and participants. As to punishment:

FRAN: Well you look at it this way: If a child at home does something wrong, you either send it to its room, no TV, or something. What did Robert get? Nothing. Just the embarrassment and that was it...

Q: ...which Rowena thinks didn't have much effect anyway

FRAN: No, it had no effect...mostly affected his father.

Q: That was the thing that struck me about it - how much his father almost did the talking and thinking and *feeling* for him. His father *was* embarrassed..

FRAN: ...and Robert wasn't. Robert was *upset*, but I don't think he...I think he was all upset that all his friends were sitting there...but I didn't think Robert was really upset for what he did. To be honest, I really don't think Robert *understands* the extent of what he's done.

Q: In other words; the conference didn't really get through to him?

FRAN: No, I don't think it did, and, I mean, maybe, in his case, like, if he's made to go to counselling and that - to make him realise what he's done...

Q: Would that have been an acceptable type of..."punishment"?

FRAN: Well, it wouldn't be a *punishment*, but something that's going to help him realise...And Robert's sort of...My attitude is that Robert, he thought, "Well, I went, I did it", and Robert even told Rowena he admitted doing it because he didn't want to go to court...

Q: Court, yes. I asked Rowena, too - if it had been a court case, I think the outcome probably would have been that he would have been let off on a bond or whatever - whether that would have been preferable or whether she would have felt angry at the end of that or whether, because it was court, it would have been more significant...

FRAN: Well, see, if it had been a court case he would have had a record...whereas we thought, well, my husband and I thought, "Well, they're both kids".

Q: So you'd prefer him not to have a record?

FRAN: I would prefer him not to have the record but I would prefer him to have...help, you know, so that in years to come he doesn't, you know, go and do...

Q: ...that - or something worse, yes?

FRAN: Yes.

Fran suggests that the conference may have been more effective had Robert been supported by others - in addition to his father. A significant problem with arrangements in the conference was that those students who did attend were there as supporters of both Rowena and Robert. How had Fran perceived what they said about Robert?:

FRAN: Yes. What they said? Well...They didn't like what he did, and they said that he shouldn't have done it, and they victimised him for a while and that...and then, he's...back into routine, which I think's what should happen, as long as Robert realised...that what he'd done was wrong...which I don't think Robert...realised.

Q: And the behaviour at the moment suggests that...he's still carrying on?

FRAN: Well, I haven't been at school or anything, but just, like, there are little bits and pieces...come home. And it's not only from Rowena, it's from a couple of the other kids.

Q: A thing that came out in the conference was that Rowena was almost more upset by the way her friends had treated her after this incident down at the swimming pool. Her friends were treating her - I've seen this happen in other cases - her friends were almost treating her as if she...

FRAN: ...she was to blame for it...

Q: She was treated by these characters the way fourteen year olds do treat one another and...

FRAN: Yes, you see, a fourteen year old...doesn't really understand, you know. And the only thing that affects her, that was some good that came out of this, was I think the kids at school - they tended to report a lot of similar incidents...

Q: After that incident?

FRAN: ...because Rowena stood up, and did what she had to do. Now the case with the other girl from the same school - I knew nothing about it *until*...Rowena's case. The parents contacted me...and that's why - Rowena's was out in the open, everybody knew about it, and a lot of other kids stood up and said, "Well, this is happening at school".

Q: And it was those friends of Rowena's who were actually in the conference who said this?

FRAN: No, these were different kids, totally different kids. Kids that Rowena doesn't even talk to walked up to her and said to her, "That's happened to me, I know how you feel and whatnot and it helped me"... You've got to speak out.

Q: And that's why the headmaster's cracked down over the last couple of months on... bad behaviour?

FRAN: Oh yes, the headmaster's...he's up with this.(laughs)

There is praise for the school principal and other staff. Fran suggests that perhaps a staff member or two might have attended the conference:

Q: So you reckon the conference would also have worked better if some people who were just friends of Robert's - who didn't really know Rowena - had been there, and the school-, the year-master...

FRAN: ...from the school, and whoever takes the statement, let them do...the initial questioning and everything, because kids relate to people they know. They don't relate to...other...to a stranger.

Q: That sounded like quite a good system. You said that it would make sense to have a senior officer in the room...

FRAN: Yes, you would really have to have a senior officer or someone there...

Q: Mmm, well I don't know that you're legally obliged to. If a senior officer says to someone else that they can run it, they can - but you think it might be an advantage anyway - just to have them sitting there?

FRAN: Yes, I think it would be, and, like kids, knowing that there is a senior person there but he's not actually doing anything...because if you get a headmaster in a classroom, you get a totally different behaviour pattern from the kids...and then it wouldn't get into a big slanging match.

Q: The authority figure keeps things under control?

FRAN: Yes, I think that would be good. And I really feel, even if it's not the person who takes the statement, say one police officer or someone that goes out and has a couple of visits with both or something...

Q: Beforehand?

FRAN: Beforehand, yes. You know, not just the one visit, next thing - bang! - you're in this room and...you don't know what's going on. It's just like being thrown into court really...

Q: So you needed to talk to people about the process before you went in to it, you reckon?

FRAN: Yeah...If they can do a pamphlet and hand it in out a week or two or when the case first started...

Fran is keen to see this process work well. She reiterates the need for official documentation, sufficient contact with the coordinator prior to the conference, speed of processing, and care to achieve rough parity between the numbers in the respective communities of care of victim and offender.

CASE: SCHOOL ARSON - BETH & PAT (VICTIMS)

This case was to have been the fifteenth conference presented in transcription in the previous chapter. Unfortunately, due to a technical error, the taping failed, and a full transcript was not available. Nevertheless, an interview with these two participants was sought for several reasons. First, the conference was unusually large, with nearly thirty people participating. Second, it involved "institutional victims". Both the selection process for attendance and the role played in the conference by those victims was worthy of analysis. Third, a successful agreement was reached and honoured despite considerable resistance, on the part of one parent, to any cooperation. Fourth, the school teachers involved as victims had multiple perspectives on the conference process. These included the perspective of victims, of professionals familiar with both of the offenders, and of educators concerned with the issue of behaviour management in general.

The interview begins with a standard question about perceptions of the process before the conference:

Q: When it was first described to you, did it sound like a sensible idea - or did you have some reservations?

BETH: What, the whole juvenile cautioning system?

Q: Yes.

BETH: No. I really do think young people should face up to what they are doing and I think being forced to face penalties where they can also make some sort of compensation is probably a good way of going about it.

PAT: As I teach legal studies, I knew the justice system was heading towards this sort of process and I saw it as certainly a worthwhile activity and considering the age of the offenders I think that they were certainly at crossroads and it was going to be perhaps more useful for them than straight into the court system.

From the perspective of a student of the law, says Pat, this sort of process seems to be the logical culmination of several trends in legal reform:

So were you happy about the information you had been given - beforehand - about what was going to take place in the conference?

BETH: We weren't really given a great deal of information..

PAT: No, just the parties that would be involved and the timing, approximately how long it would take and...(Were we asked anything?).

BETH: Not beforehand, no.

PAT: No, I think it was just sort of assumed that, you know, if we were available and we could make it, and how our particular role was with regards to being members of the school that had been directly affected by the effects?

Q: Would you have preferred for there to have been some sort of handout that set out the aims and objectives of the process?

BETH: I think that would probably be a good idea, yes. Well you see, because of my background, I had that aspect of it.

PAT: I think so, even if from your own point of view, I think everyone should be given, "What's the whole point of this?" - I guess even to the extent of the parents, and the students.

BETH: I think the students perhaps could have had a little more background.

Q: That's the two who were there as offenders?

BETH: No, sorry, the others, the representatives.

Q: The representatives of the students? Although I recall, they both spoke very well and very effectively.

BETH: Oh yes, they're very articulate. People were basically asking them to come along. Not only were they a part of the peer group but also they were representatives from the school and they were articulate.

The school community, in other words, had prepared itself fairly well for this conference - without a great deal of formal information from the police. As to the conference itself:

PAT: I guess, once again, with giving a little bit of information beforehand, they can also give you a bit of an agenda sort of thing on how it *is* going to unfold. You know seeing it was the first time for me.

Q: So, you would have liked to have known, for instance, that the offender's story was given first, followed by....

BETH: Yes, just a bit of an agenda I guess. I mean...but maybe that's making it too formal, I don't know. Maybe they're trying to get away from it.

Q: Well, that is a central dilemma and I suppose one way of getting around that sort of thing is to have someone tell you or explain to you over the phone rather than have someone hand you a piece of paper.

PAT: But I don't think that need be an agenda or anything, that just a note that, "This is the format we generally take" is formalising it too much.

Q: Sure. So there was nothing in there that you were surprised at? Do you think it was generally effective - by whatever criteria you might use?

PAT: We...For one of the offenders, definitely, definitely. And I can see that for the particular type of person he was, it was most effective because it is going to be far more effective than say punitive measures and removing him from facing...the victims of his actions. The other was...

BETH: Well I don't think anyone had a lot of parental support in the sense that the parents were trying to distance themselves from the student's actions a great deal and felt that we were there to actually criticise them in the way they had brought up their child and that - which I think was a very negative viewpoint. I mean, kids that age, we know what they are like, they can't be held responsible for...you can only support them.

Questions of parental psychology are discussed. The issue of visible remorse arises. Clearly one of the perpetrators and his parents were remorseful. Pat is not convinced that the other perpetrator showed remorse. Nevertheless, they did complete the conference agreement fully:

BETH: Well, afterwards it was made very clear to us that they had done...made recompense as best they could, had cleaned up the damage as best as they could, and that was the end of it - and that's how I took it.

Q: They did that over several weekends?

BETH: They did some community work over the holidays. I think they did the girls' toilets, they were repainted.

PAT: They scrubbed the smoke damage off the walls and so on.

BETH: I agree with that. The hard core criminals - you're not going to - I've got probably some coming through now that I know of - that no matter what you do, it's not going to work. But those ones that are sort of in between, I think in this system they are made to pay for their damages and made to pay for their actions and scrub the graffiti off the wall - and I think it's a good way of going. I really do.

Q: This was an interesting sort of case because it involved what we call "institutional victims" - who were quite rightly upset - but the bulk of cases involve someone who's *directly* had their house burgled or been assaulted and so on. But you clearly have felt that you had a chance to say what you felt - or was that not the case?

BETH: There wasn't anything else that I wanted to say. As I mentioned on the day, I think the cleaner should have been involved. Because that was the first person that came across it, you know, all the stains on the wall, there's the door down. You know, the cleaner was there. She really was being apologetic. She's tried to clean it all up, she hasn't had time to get to the desks. And it's not really her task to do that.

Q: Did you say that on the day or not?

BETH: I did mention the cleaner should have been there, because that was the first person I had contact with. I mean, I don't know. But, I mean, I didn't think of it before then until...

Q: Well, that's a very good example of how when we're faced with a case of what we're calling institutional victims, we often don't think about who's been most effected.

The discussion turns to the question of how many chances a young person should be given. This leads, in turn, to questions of child psychology and family support. Self-esteem and bullying are raised as political issues. How effect has this had on the role of school counsellors?:

PAT: Well the whole nature of the school and its place has changed. There used to be *seemingly* more support when society was more based on families that didn't move from particular locations, from the types of activities that were available were quite similar, and people tended to think, "Yes everything fitted this norm". And of course now, with expectations and so on, society has changed and the school needs to change and just a range of welfare and avenues for dealing with students' problems need to be recognised. We need to be more pro-active.

PAT: All this sounds great and caring, but I know myself, as a year adviser I've got two periods a week to look after the interests of 200 students. It's absolutely ridiculous.

Q: So that would be about twenty four seconds...

PAT: Eighty minutes for two hundred students. And in the forty seconds, don't file anything - because that's your time gone!

Under the circumstances, is there a greater need for cooperation between agencies? Is it appropriate for police to be involved in what are, essentially, matters for the school community?:

PAT: The kids see quite a bit of the police and the beat police are always coming round to the schools and they talk to the kids. And I think maybe, occasionally, it's quite a good thing because then everyone can think that, because it is happening inside the school. you're not beyond the law.

BETH: Yeah, yes.

PAT: So they can still come into the school and still get you for things you are doing inside the school, you are not isolated, you are not protected because it is happening inside the school environment.

Q: So there is a symbolic value in having the police coming in from time to time?

PAT: Well, we're all trying to improve society - police and the schools - and make...

BETH: They're not two isolated groups.

Pat talks about the potential public support for the family conferencing program. The fact that it personalises issues, and can act as an effective deterrent are both seen as important factors. What of the criticism that it is wrong to expose young people to feelings of shame?:

BETH: Well, maybe we need some more of that...in our society?

Q: Would that be your experience as educators, that there is not enough of that?

PAT: Well, I don't think...

BETH: I don't see it as shame for the kids, I mean they've got to face up to it, I mean our system doesn't allow them to face up to it.

PAT: Yes, sometimes...I know, I had a similar case, where a child had stolen her handbag. I think it had the school money in it, she hadn't been to the bank.⁶ So they then took, you know, the child was directed into work for this person for a set number of weekends or a set number of hours and so they washed the car and mowed the lawn and cleaned the lower windows, and while it may have been seen by some as, you know, this child seeming to be a slave for you, the child well and truly realised that he had hurt this person and he was going to have to pay them back somehow, and they saw that as being very effective and at the end they thought well he has made they saw that as being effective. In the end they said: "Oh, he's made recompense to me" - you know? - "I don't feel bad about him doing it any more because now he has made up for it and I don't think he will do that type of thing again". And they almost changed their attitude about the courts, going to the court, for first time offenders. You know, it's less likely to be effective.

BETH: I think though, the kids have got to see that something has been seen to be done. We had another student who put his fist through the library door. He was made to repaint that - the glass in the door. Now, I think that the other students have got to see that, "Oh, he didn't get away with it".

Q: So it does send a message?

BETH: Oh, it's got to. I mean, okay, you're going to have one or two kids who might feel victimised because of what is happening, but then again you might be preventing a hundred other kids from doing a similar sort of thing - you've got to weigh up what's more beneficial. I think the prevention of a hundred more students from doing the wrong thing than one student - because often it's water off a duck's back for a lot of these kids. It has to be known, and I think in the community it has to be

⁶ Pat is probably referring to case eight in the previous chapter

known too. They don't have to know the kid's name but they can say a student...and this is what has happened as a result of...

Q: So it's just sending a general message about responsibility and respect for other people?

BETH: Yes, I think so.

Q: And you think there is a general lack of respect for other people among some of your students?

BETH: Oh absolutely! Yes, of course.

PAT: The concept of other people's rights and their own responsibilities is very, very limited and this helps perhaps reduce that concept, in a very tangible, physical way.

There is a short discussion of possible ripple effects from these constructive outcomes. Pat reminds her colleague that there are "still far more nice kids out there" than the sort of difficult individuals under discussion. In summary, then, what final reflections did these two experienced educators have to offer on the process?:

PAT: As I said before, we weren't told the names of the offenders until very close to the actual process coming up. That was basically to make sure there wasn't victimisation or comments made within the school and so we *were* looking after their feelings.

Q: Was that decision made by the principal or by the police or by you?

PAT: It was related to me through the highers, through the deputy and so on: "Yes, we know who it is". And when the actual names were mentioned, I was quite surprised. And that was basically because of the age of the offenders, and certain people expected that. So that was a bit of a shock.

Q: In that you only expected the scheme to deal with younger offenders?

PAT: No, no that the offenders were actually at that age - because it was like a younger age offence. But of course, when we thought back, well it's not chronological age, it's really maturity.

Q: And certainly the kid about whom you are less hopeful is not particularly mature, is he?

PAT: No, no he has a little while to go yet!

Q: Did some of that come home to you - when you saw his parents in action. And I know it's too simple to blame the parents, but there were some real problems there?

BETH: Oh yes, there was that aspect. I mean, you could start to see, yes, you know and of course, with the years of experience of teaching, you always know that there are aspects of people's character that definitely depend on their home environment and expectations. So that did explain...a little bit more. But the quieter of the two - as I said, that was a total shock and I think that was more peer pressure and so on, lack of judgement and perhaps lack of strength on the actual occasion - to either pullout of it or to prevent things going on.

Q: But there was, in a sense, a total contrast in the way he was given support during the conference.

BETH: Yes.

Q: And I wondered at the time whether the less supportive parents might have taken any sort of lesson from the way the other fellow was supported.

BETH: Probably eighteen years too late! Parenting skills are something that I think are demonstrated to you, for a start, and that you pick up along the way. Actually teaching is very good for parenting skills, except that you don't have a lot of patience when you get home. Not as much as you should have!

Finally, Pat has some reflections on the similarities between teaching and policing. She has thought about this a good deal, since a close relative was a police officer for many years:

PAT: Actually, I should ask you a thing about that, because he grew up and entered the police force at the time where, in the '50s, you know, you kicked a kid in the butt and told them: "Don't be so stupid" - and off they went home. Being a small town, too, it was his first posting, or his second posting, and of course there, you were the town policeman and your role was to...with the parents...I know [his wife] was the town social worker too, as the town policeman's wife, you know...

Q: Yes, that famous role!

PAT: Well and truly! So I think actually going back to the beat police, having the police come back and work with the schools on some aspects is probably getting back to that concept of local policing - the town police officer and knowing a lot more about the community. I don't know whether it ought to get back to kicking the bottom and letting them go!

Q: Well maybe it shouldn't, you know, there are arguments from both sides. That is an interesting point you make - there is, in a sense, a move back to that, but under totally different circumstances. So, on balance, you'd be in favour of this approach. Have you discussed it with your legal studies students?

PAT: In the context of alternative measures.

Q: Mediation?

PAT: Yes, and so on, and also the kids' rights is an aspect we've covered.

Q: Right, and you think this scheme is supportive of kids' rights?

PAT: Mmm. I think so. There is definitely the leaning to empower victims in lots of circumstances, and of course that, then, in the media, is high on the list.

Q: Well, there are two basic approaches. The approach of the legislators, currently in Victoria, is just to create ways of toughening sentencing. *This* is going in the opposite direction, if you like - in some cases with different offences, but the underlying *philosophy* is quite different, too.

PAT: Well, purely punitive measures are not effective.

Q: Tell that to the Victorian government.

PAT: Name *any* liberal politician! But this isn't punitive. This is the approach in the right direction. And so, like any good idea, it needs resourcing, and it needs to be supported, otherwise it will just fizzle out and there will be a cycle back to, "That didn't work, so let's scrap it totally".

Q: Well, how optimistic are you about this shift in Wagga succeeding?

PAT: Very. Very. Now I have heard that the actual clear-up rate for juvenile crime has improved since they had their crime prevention workshops with the school students who'd finished year 6 and onwards and of course now the funding's been cut back for that, and the resourcing's been cut back. So I suppose it's going to take time until they have a look and they say: "Oh gosh, juvenile crime has gone up again, and the clear up rate's gone down!"

Q: That's education or police department funding that's been cut?

PAT: Police department funding. And the clear-up rate for juvenile crime had improved. But of course, decisions about where the teaching's going to occur, and how it's going to come about, that comes from outside the zone. You cut your cloth to make it fit!

Q: Despite all the nice theories about decentralising power, you have the same thing in the education department, with its directives about exclusion - despite the supposed increased autonomy for principals.

PAT: Well, you still have to be accountable, and that's fair enough. But a lot of their policy statements are...not worth a lot...Often, statements are made for public consumption, and the practicalities are left for others to attend to.

CASE: BREAK, ENTER AND STEAL - ANDREW (VICTIM)

This was the final case (number fourteen) presented in the previous chapter. Again, the victim had more than one perspective on the case - having worked as the duty solicitor at the Childers court. He offers some valuable insights:

ANDREW: We just had the three sets of parents there, and the three kids, and I...probably the thing I thought was good...The way I saw it as being good was that the kids, when they go to court, it's a bit blasé for them. They sit down behind me; I get up and do a spiel for them, and then the magistrate just sums up and says, "You're a naughty boy; here's a bond!". Whereas the other way, of course, they're in front of their parents, and they're having to ask questions and - answer questions - and Terry does a great job as far as he...he puts them on the spot in front of their parents and just says, "Why'd you do it? What do you think of that person over there that you've robbed?". And I can see it being fantastic as far as assault's concerned. I mean sometimes you might...you could almost see the other person coming over and decking the kid that's done it...But just to put the kid on the spot, see the guy when he's sober or, you know, in full light...

Various campaigns opposing the conferencing model are discussed. One of the chief concerns of some critics has been that the process be confined to minor matters:

Q: And you're saying straight away you think it would be appropriate for offences against the person - as well as property offences?

ANDREW: Mmm, yes, yeah! Because it means the victim sees the person again. I mean in the court system the victim never knows what happens, hears the kid ends up with a bond or something like that, and they've been beaten senseless, and can't understand why they're only getting a bond, because they're not sitting at the back of the court and hearing that it's a first offence or, you know, there's a background behind it of family abuse or whatever⁷...You don't get that. That stuff won't come out in the cautioning system, but at least they're able to sit down and thrash it out. And if you've got a decent person running it, who's going to ask the appropriate questions, then it's almost a scare tactic, but it's a much better scare tactic than the court house is at times. You know, this actually...the young person I'm referring to went before the court this morning - on a driving matter. He's got his licence and ended up speeding, sixty kilometres over the limit, down Lake Albert Road. So he's on a speed-dangerous charge, and really this morning wasn't, I don't think, quite as effective. I mean the magistrate gave him a good revving - this magistrate does this - but it wasn't nearly as effective as the cautioning program. But then, of course, the cautioning program wouldn't have worked for a speeding offence.

Q: Yeah, that's a difficult case.

⁷ For a timely international discussion of mitigating circumstances in sentencing, see Andrew von Hirsch (ed) "Symposium on Sentencing Guidelines and Guidance", *Criminal Justice Ethics* 13 (1) 1994

ANDREW: He's just got to be reprimanded by the court, but where there's a victim...I mean, the thing...The one I went to - because we'd just had our petty cash stolen, involving almost an internal type of thing...someone who was an employee's child type of thing - it didn't...you know, I wasn't upset. It didn't worry me as far as losing the petty cash tin. We got the money back, the kid's paid it back. So it was just interesting...and, you know, I went there...along...in fact, I think I said to Terry I didn't have time to go. I had something on - I think I might have had waterpolo on that day...In the end I said, "Oh, alright, I'll go along and have a listen!" And I thought it was fantastic. You know, all the...the kids...all really had their heads bowed...And if one or two of the kids had been my children, I probably would have almost decked them - the way they just wouldn't...you know ... mmmmmmbllmmmm ... mumbling and grumbling. I thought: my kids'd do that - the same thing! But that's how kids are; it's hard to get them to speak up. One kid spoke out quite well. He turned out to be sort of more of the smartarse of the group. Probably the worst kid of the lot, I suppose - he was a bit *overconfident*. But at least the kids were made to front up to, you know, have to look at their parents and say, "Look, you know, I'm sorry, I've belittled you"...

So the conference process offers a different set of dynamics to court. The psychology is quite different. But doesn't Andrew feel, as a solicitor, that the process might undermine the rights of the young people involved?:

ANDREW: Well, I don't in the fact that they don't know what they're going to get with the court house. If they go before the cautioning panel, it's only on a plea of guilty - it's only on an admission by the kid. So if they don't admit it, then of course they don't go before the cautioning committee. If they admit it, then it means they're going to plead guilty at the court, and at the court they're going to get a penalty. At the cautioning system, their record's going to be kept intact, and although they're going to be belittled, and made feel, you know, ashamed and everything like that, they're going to walk out with their legal status, I suppose, or their record intact. And, I mean, they've got to lose something to gain that right. Whereas the court house...I just can't see them losing their legal rights where they're going to plead guilty anyway. Yeah, no, I'd probably have trouble with that.

Indeed, Andrew suggests, the process offers young people several advantages denied them by the current system. Given the apparent virtues of the process, then, has he noticed any major differences around town since the program began operation?:

ANDREW: Not really, no, I couldn't honestly say I...can't say I could see a drop off in juvenile crime or whatever or...There hasn't been...the kids that I know that have been through the cautioning scheme - which I don't know of many - whether they've reoffended, I wouldn't know that. I just know there are some figures that say, you know, that the reoffending is fairly minimal. And I think if you look back at your own past, you know, you might have done something where you could have been caught for doing it - some petty thing...You know, you may have pinched your mate's pushbike for half an hour or so, whereas you could be charged for that...And the kids...I mean, every kid does something wrong at some stage that they could almost end up before the cautioning committee. So that if they can end up before the cautioning committee rather than the court, they'll do it once, and then never be caught again. And that's the benefit of it I see - that it gives that...it gives the police a way of not having to decide who's going to get a caution and who's going to be let off. They go before this cautioning body, and the child gets a second chance. If they

abuse it, then the next step's straight over to the big room. But you know, I really can't say that I've...how that manifests - because I just don't know the figures...

Q: So there's been no obvious - from your perspective - decrease in workload - even though, if you like, the police are "culling out" larger numbers and dealing with them this way, rather than putting them before the court?

ANDREW: Oh, yeah - I think there's no doubt about that. The court list - for juveniles - has dropped off a bit.

Andrew explains the current workings of the local system, and the details of staffing arrangements:

And now it's a system where the legal aid office does the adults and the private solicitors do the juveniles. I'm surprised there isn't all that many over there. I mean, you go across on the Monday or Tuesday, and you might only do two or three I think these days.

Q: So there has been a drop off over the last two years?

ANDREW: I would think there probably has, yes. Yeah...

Q: And that's an arrangement that suits everyone?

ANDREW: It doesn't worry us, yeah! You know, looking from an outsider's point of view, and saying that, you know, the kids deserve one chance, and it's a way of giving it to them, and it's great. It also helps the legal system, because I mean this court is fairly well clogged, in the fact that the mid-...No doubt you'd have the figures, with the drop off - and I'm sure there has been...

Q: It's about fifty percent...

ANDREW: Is it? Juveniles appearing before the court?...Well see, that's got to help the court list because, you know, each kid might take, oh, twenty minutes to half an hour, I suppose. And you have ten of those on a Monday and, you know, it adds up!

Another relevant point here is that, because the primary focus of conferences is the incident rather than the perpetrator, the number of "hearings" is reduced by a factor of 2.2 - that being the average number of perpetrators involved in a juvenile justice case. Then there is the question of the speed of processing:

ANDREW: Yes, well that's only if you plead not guilty, because you go within a fortnight...if you're charged today, you'll be dealt with by the court in two or three weeks time...If you're pleading guilty...and if you plead not guilty, then your hearing of the matter is not 'til the end of July at the present time, or some are beginning in August..

Q: Well, that's a double incentive to plead guilty!

ANDREW: That's right. Well one of the problems with the delay at the present time is that you get the hardened criminals - whether they be juveniles or adults - and they plead not guilty for the sake of it. It doesn't cost them anything. The sooner they bring in a straggler [?] - you know, they plead not guilty, they come up with two hundred or three hundred dollars - they'd think twice about it then. You get your hardened criminal, they think, "Oh, well, I may as well plead not guilty, it doesn't cost me anything. I might get off; you never know!" - even though I'm guilty. They'll never tell you they're guilty.

Q: Born gamblers?

ANDREW: Yeah, that's right! They're gamblers! Nothing to...you know, it's not going to cost them anything either way...only their liberty if they lose.

Back to the issue of the family conference: Does Andrew have any recommendations for procedural change?:

ANDREW: No. I think that Terry did a good job. I mean, I didn't know what I was going to get myself in for when I turned up. I just didn't have a clue who was going to be there or what it was all about. But the way it was run...I couldn't see it being run any differently. It all gets back down to the person running it, asking the appropriate questions, and putting the kids on the spot. And that...it's all very well to ask me what do I think about being robbed and that type of thing - and I said, "Well, you know, I was a bit upset about it" - and things like that. I mean, if someone had broken into my home I probably would have been a lot more upset than someone breaking in *here*, and just pinching the petty cash tin. If they break into your own home, go through your bedroom, go through your lounge room - whatever - you feel a bit more violated than you do having someone in your office. I mean, had they gone through some files I'd be, I'd probably be a bit more annoyed...

Q: That would be almost insulting you as a person?

ANDREW: Yeah, that's right. Yeah. Well that's true...but it could have been my files on someone else type of thing, where you think, you know, "What have they picked up there?". But, you know, Terry did a good job, and I mean...I'm putting my mind to what changes could be made, and I...honestly don't think there'd be...not many changes. I mean, you've got to ask everyone in the room a question, and it's a case of asking the kid more questions than you ask everyone else - because they're the ones that you've just got to make *feel* as though they shouldn't be there.

The distinction between "institutional victims" and those who are more directly affected is discussed. As is often the case, the distinction was not clear cut here. Andrew knew the mother of one of the perpetrators quite well. Had that made attending the conference a little more difficult?:

ANDREW: Yeah, a little bit. Yeah, well, as I say, because I didn't...it wasn't...it was only the petty cash tin, it wasn't too bad, of course...It wasn't too bad. It probably made it easier, actually, because I knew her and I could sort of look at her and say, you know, "Don't worry! It's not your fault. All kids do something wrong".

Q: And you haven't spoken to her about it since?

ANDREW: Yeah, yeah I did. I've spoken to her since, and she, you know...I don't know whether it changed the kid or not. I haven't spoken to her about that. We were probably having a bit more of a joke about it more than anything else - she and I - you know, because we were saying, "Well, kids can be kids! Her kid's tipped over the wrong way, and let's hope he goes the right way now". And I just think it's a great scheme because it gives the kids a second chance, and I just think, you know, if my own kids did something and they'd get a second chance, then they probably wouldn't do something again. I mean, they haven't done it yet, but you never know what might happen in the future!

Q: Would you have any difficulty then with kids in some cases being given a second or even a third chance - if the review panel looked at the case and said, "Well, maybe we should give them another"...

ANDREW: Second chance okay. I wouldn't give them a third! Once they tip over the edge three times, they've just got to go and be taught a lesson. But the second time, I could...You know, if it's a case of a kid being...not a strong kid and being misled...I could, there'd be circumstances for a second time.

Q: And you're happy - this is another concern the critics have - you're happy for that discretion to rest with a group of sergeants on the review panel that decides when a kid goes to court?

ANDREW: Yeah, I am. I mean, it doesn't matter who you give it to...I mean, how can they say..."you give it to five citizens from the community"? Some are going to be biased somewhere along the line. The sergeants are probably harder line than anyone else, but you know...I think it's important that you certainly have quite a few of them making that decision, because it's quite easy for some of the kids to upset old sergeants...They're easy to upset and they'll say: I'm not going to give you a chance!

Q: So the more the better on the review panel?

ANDREW: Yeah, I would have thought so, yeah.

Q: And what about the possibility of having outsiders...?

ANDREW: Yeah...

Q: ...say, a solicitor...

ANDREW: Yeah, I don't think it would hurt - to get an unbiased view. It would be worthwhile....But having been there, I'm all in favour of it. I didn't know much about it beforehand; I thought that we all got together and, you know, roused on them, or whatever; give them a kick up the backside and send them home. I didn't quite realise that everyone turned up at the thing.

Q: The way Terry sees it, the less he says, the better. The dynamic among the group there should take off of its own accord. You're letting the community do its own policing.

ANDREW: Hmmm - that's right, yeah!

Q: You saw an element of that in the one you were at?

ANDREW: Yeah, yeah.

REFLECTIONS OF A SCHOOL PRINCIPAL

This wide-ranging interview was conducted for a variety of reasons. One was that this widely-respected school principal regularly encountered students who had had experience of a family conference. A second was that, having considered the principles and alternative applications of conferencing, he had now begun to apply those principles to cases with which he himself had to deal. Here, then, was probably the first case of the process being transferred from policing to schools. And a third reason for discussing these issues was that this principal was still annoyed at not having attended one particular conference, to which, he felt quite strongly, he should have been invited.

The interview begins with a long discussion about changes in school culture over the previous two decades. The conversation then turns to the specific case. Ted is still understandably annoyed about the way the case was handled - by several departments:

Now we were never invited to the course...the conference. And I had a lot of involvement with this mother, and his mother washed her hands of the kids. There was family support for one day, for the case, and then they bloody washed their hands of the kid, and I was left picking up the pieces with the kid, et cetera, and, you know - whereas the victim's mother and father went along. The interesting thing is, the other kid in my school that I worry about killing somebody is that particular victim, is [Robert G_____]. And he, in his own mind, he can't control his rage either. And the interesting thing is, I think there was a real interaction between these two kids, that they almost recognised it in each other. And that's where the depth of

animosity came from in [Jim] - that he had seen the other side of [Robert]. And you know, it's frightening. [Robert] broke twenty three bones in his hand the other day when he crunched a brick wall. And that level of violence worries me. And I've confiscated two or three knives. You know, look at the kid that was stabbed at the dance the other day. You know, a knife in the chest and he's gone. The kid that was shot in the street outside the nightclub - the bouncers did it. Nobody would deny that we have an increasing amount of violence in our schools because we have an increasing amount of violence in our society, and on video. The Teachers Federation want to pretend it's not happening, because they feel that if we own up to its happening, it's almost as if the teaching profession is unable to cope with it. So they see it as a reflection, and the schools are essentially safe. Everybody's trying to cover their own arse.

Q: But you're saying, in a sense, the responsibility for it is being sheeted home to the schools, and actually the police feel the same way - that they're being made to feel responsible.

TED: Oh, I agree. I think that the police and the schools are always at the cutting edge of...feeling these social moves earlier than anybody else. And, you know, my four years teaching in B_____, you know; I was stabbed three times, I was shot at once...It was a community that was, at times, violent to the extreme.

Q: Did you ever get any sort of apology for that behaviour towards you?

TED: No.

Q: Did you think it was possible?

TED: No, I didn't think it was appropriate. You know, apologies are a middle class kind of expectation.

Q: Well, they're an expectation. But, I mean, taking responsibility for your own actions is something that - interestingly - Aboriginal mothers who've been involved in this scheme talk about all the time. But they say, you know, "It's assumed we're not going to take responsibility for our actions". And it's interesting, in the follow-up to that particular conference, Jim's mother actually did make contact with the police, and thank them, and say, "This is the first time that..." - and I don't think that she was being obsequious or whatever, I think she was actually saying - this was the first time she'd been allowed to speak about the process. It was a very strange conference to watch, because there was a real opening up between the parents...

TED: I was never invited to it.

Q: And I think that was possibly a mistake, because...

TED: I'm sure it was!

Q: As a victim - if you like - or as a commentator?

TED: Because I also had that *responsibility*. I had teachers who were frightened by it. Because it happened publicly, and...

Q: It sounded like a very violent incident.

TED: Oh, extremely! And I had teachers who had never witnessed anything like that before. I had *students* who had never witnessed anything like that before. I run a program in my school with half-a-dozen Aboriginal kids that I...explore and exploit as leaders. And, you know, I've got a kid that I'll pull aside, and I'll say, "Look, you know, what happened down the playground?" - "Oh, so-and-so had a fight, Sir." - I said, "Do you know what's going to happen now?" I said, "Everybody, all those kids are going to say, 'Ah, the blackfellas are fighting again!'". I said to him, "That builds up this pool of racist views, et cetera". I said, "What can we do about it?". And he said, "Stop'em fighting, Sir". I said, "Who can do that?". He said, "I can, Sir". I said, "Well, how about you do that?" - you know - et cetera. Because the messages that go home to the dinner table every night drive your school. So that if in fact the message is...And it was this kid that broke up this fight, that, you know, stepped in -

they'd have killed each other if they'd have been let go. He's the one that stepped in. And, you know, I've got two or three boys, and girls, who have this...who share with me the importance of, not creating a *false* image, but protecting the image of Aboriginal kids as kids that quite enjoy their days at school and, you know, can find alternate ways to resolve their conflicts and their disputes.

Ted describes some other methods he uses to bolster a sense of self-respect among his students. The discussion turns to questions of educational psychology:

TED: I've got a teacher who runs a program, especially with his Aboriginal kids, but not only with the Aboriginal kids, where he does a lesson on, "You write your diary, you write anything that you like. And I'm not going to read it, and I'm going to do the same. But if you want to read mine, then I read yours". So he writes his diary, and he writes of how he had a blue with his wife, et cetera. And you find kids will come forward - in front of each other - and just throw the book on the table. And they'll swap and they'll read. Because obviously these kids want somebody else to read...One particular girl who had an abortion last year and sniffs fly spray and, you know, has been to the bottom of the barrel and back again, you know, she's the one...And...she's pissed off with this bloke that left her. You know, it's the fact that she was dumped that hurts most of all. You know, one of the things that does come out of the theory and practice - and Terry said this the other day - kids really need *power*. They look for the control, and if they can't get some control, then they'll take it. And as to how you put some control back into a kid's life, it's very difficult sometimes. And my "wind the clock forward, and wind it backwards", it gives them control. Because what it does is it brings out their fantasies. "What are you trying to become?"...

Q: They see themselves as a developing person; they're not stuck in the rut they're in?

TED: Exactly. I've never, ever come across a kid that hasn't had fantasies, that hasn't taken himself...a lot of them won't, you know, bring it out very quickly. And the thing that puts a glint in their eyes is when you say to them, "Now you've wound the clock forward; what sort of Dad are you going to be? what sort of Mum are you going to be?" - "I'm going to take my kid fishing. I'm going to take my kid to the football. I'm going to help him with his homework, et cetera".

Q: That's the thing that drives them, it's these meaningful relationships...

TED: Meaningful relationships!

TED: Which is what Terry's picked up on.

TED: I was interested...Were you at Terry's talk the other day? No, he had somebody else in the room...and he spoke about "reconfiguring the networks". We don't get to do that. It is very difficult. When I go to the card, there's only one, maybe two names on the card for "guardian". I don't know the influence of the grandmother and the grandfather, you know.

Q: Or the aunts and uncles.

TED: Or the aunts and uncles!

Q: Neighbours...

TED: You know, Terry talks about victims, about getting the victims in. And we don't often get the teachers in. Kids don't often see teachers...as real people. You know! They're artificial constructs. And that's why kids sometimes find it very strange, because an amazing number of teachers don't have the ability to become real people in the playground.

Q: They can't switch between "real person" and "artificial person"?

TED: No, no they can't. They can at athletics club sometimes...or when they're playing cricket. But they can't do it in the playground. The body language is all wrong, and

the language is all wrong. And I walk through the playground and that, you know: "Got some runs on the weekend, John!" - "Yeah, yeah, yeah, I was really seeing it well". - 'Cause I read the paper, look up all my kids' results, you know. - "You got a duck on the weekend!" - "Oh, Sir! Don't talk about it!" - Before they know it, you're sharing something; you're communicating. - "How's your love life?" - "Don't talk about it! Don't *talk* about it". - Dinner table talk. They don't get it.

Ted describes the other venues where he and his colleagues might try to foster a culture of talking and cooperating, rather than a culture of aggression. As a strong example, he talks about resolving an incident involving a young man who had been the victim of a sexual assault. The young man in question had been bullied by fellow students, who perceived him to be a victim. He explained this to his father outside a local sporting venue:

He says: They're the boys that, you know, ring me up and throw rocks. And look what they did today. And here's these cigarette burns through to his skin. So Dad's wheeled the car around, and gone back, and jumped out and grabbed the kid by the head and the hair, you know, "I'm going to kill you! I'm going to kill you!" The teachers have intervened and reported back to me. So I've gone into a five-o'clock investigation, you know, rung all the parents and got'em all together and thought, "Well, I'll do a Terry O'Connell. I'll risk getting these people together". And I'm thinking, "I get these two Dads in a room, and one's going to look at the Dad that's assaulted his kid and is going to jump up and snot him". I said to Dad, "How do you feel about this kid grabbing your son?...this man grabbing your son?" He said, "Disappointed". I said, "Disappointed?" He said disappointed he didn't punch his head in. Like...Dad's pulling his hair out. Dad reckoned the kid's...got it coming. You know? Anyhow, I got them all together, and we made some progress. The real progress, of course, was when I looked out the window half an hour later and they're still...the parents are still talking in the driveway. And I thought, "Well that's a giant step forward!" But there was one Dad that hadn't been involved. And the Dad that's been persecuted said, "Do you think I should go around?" I said, "Go 'round, go 'round!" So I said to the boys the next day, I said, "How'd you get on yesterday?" And they said, "Oh, our Dad's are talking to each other". And he said, "Yeah! Mr so-and-so come round to our place". And I said, "What did they do?" He said, "They went out into the back yard and they had beers and that, you know". I thought, "Well, what a giant step forward!" And every day I try and find those kids, "How are things going, how are things going?". 'Cause you've got to have that continual input. But my department won't give me any resources. You know, we've got a bloody government in this state that puts mentally ill people on the streets and that, you know. As a society, we're not prepared to pay for our victims.

This raises the issue of correspondence with the department over the discretion to suspend students from school. The role of other departments in responding to violence and victimisation is then discussed. As it happens, the Attorney General for New South Wales had publicly expressed an opinion on related matters the previous evening:

He was pressured, by Kerry O'Brien, to the point where he had to concede that, even though they'd implemented all these reforms - of "police culture" and so on - that more and more people were going into jail, and therefore the rates of death in custody weren't coming down. And the only way to get those figures down was to get people talking and taking responsibility for their own communities.

TED: There are *significant* shifts in the inter-relationships between kids and schools in society. I've been a great believer that there are three influences on a kid - the family, the peer group, and the schools. And the school will always run stone motherless last. And if you haven't done that early work in the family, at fifteen, sixteen, you are in serious trouble. You know.

Q: Well, earlier.

TED: Yes, that's what I mean - at three, four, five - you look at the New Zealand study, et cetera - if you haven't done it then, then you get into strife at fifteen, sixteen. Because to attend that deficit is very, very difficult. But so often it's the police and the punishers in the juvenile justice system that become the agents that are expected to solve the problem. And I don't have the resources. You know, schools are *educationally* involved, you know. I've got three or four kids that come to school and - if they do come to school - last five minutes, and they go home. I can't restrain those kids. There is nothing I can do.

Q: Are they violent towards other kids?

TED: Sometimes, sometimes not. Sometimes thieves, sometimes not, et cetera. Now I don't have the resources to say, "Jim, there's your one-on-one counsellor, there is your saviour. Jack, there's yours. Shaun, there's yours, et cetera". I don't have those. And as soon as I put them in a group situation...So: fifteen kids - "Here's your saviour. Got this wonderful program, et cetera"...And then the kid's out the door.

Q: But there, on the spot, you're creating the peer group that's the problem.

TED: Exactly! Exactly!

Ted admits that it is sometimes difficult to accentuate the positive when he has to deal with so many negative social developments. But he is confident that a process promoting openness, dialogue and mutual support is a significant step in the right direction.

A SCHOOL GUIDANCE OFFICER ON POLICY AND PRACTICE

Again, this was an opportunity for several interviews in one. This particular school guidance officer has been involved in discussions about the application of conferencing in schools, but she has also had an opportunity to observe several conferences - in different roles. Her observations from the perspective of a supporter of a victim are particularly insightful.

The interview begins with a discussion of how she first became heard about the conference process:

We'd started to talk about the possibility of doing things like that then. Terry had been wanting me to see some conferencing and coincidentally, about a week before I did, I was asked by a parent to be a support person at a conference for a child that I knew from one of our schools.

Q: Pure coincidence?

HILARY: Pure coincidence! So I had it from two perspectives. I had it from sitting as a participant - a silent participant - and then the next week I sat through three conferences as an observer and I felt really excited by it. I mean as Paul was talking about, one of the obvious implementations of the process is with kids on suspension. To have that kind of a process before they're suspended, I feel really excited that

that's a potential. I felt when I was the family support person and I had a chance therefore...The parent of the child who was the victim had a lot of contact with me before that and I knew that she was very apprehensive about wanting justice, and, "What was this all about anyway?".

Q: So she thought in advance that the offender was going to be let off lightly?

HILARY: She didn't know what the agenda was and while I had an idea of how it would run, I hadn't ever been there. So, yeah, neither of us really knew what it would be like. So I knew she had some really strong views on what had happened and had a real need to express those views.

Q: Was this an assault case or a property case?

HILARY: No, it was an assault and she had the opportunity in the conference to say a lot and she did and at the end when everyone was sort of finishing up, she still had a need to keep talking, and that process allowed her to do that. I don't know that she came out of that one hundred percent happy with it, and we talked again and I said, "Had that gone to court, one, you wouldn't have been a party to it, there wouldn't have been any great outcome for the offender, there would have been bonds or cautions or whatever and you would never have had the opportunity to say to the kids, to the parents, to the people at large, 'This is how I feel, this is how much this has affected me!'" I felt, therefore, that that process really empowered her. I felt that, I don't know whether *she* felt that.

Q: She wasn't convinced though?

HILARY: Yes, because she didn't have anything to compare it with.

Q: Well, after you had spoken to her, was she at all convinced then or was she still angry?

HILARY: She was still angry. She was going to...she had sought some legal advice which she was going to follow up on just to see whether there was anything else that could be done. What I tried to explain to her was that what had been done there - this kid had been given some community service - was far more than what would have happened in a court proceeding.

Q: Did she say specifically she wanted those kids punished?

HILARY: No. She didn't necessarily wanted them punished, she wanted - this is me recollecting now - them to know that what they had done was not acceptable and for there to be some consequences for their behaviour and she certainly had the opportunity to let them know how unacceptable she felt it was. And in fact there were consequences - they got this four weekends of community service order work.

Q: Was it doing something specifically for her family or just general work?

HILARY: No, I guess there was a strongish sense of retribution because she wanted it to be on weekends when they would otherwise be out enjoying themselves - because of what they had done to her child and the impact that that had had on her family.

Q: Well, what about the rest of the family. What was their response to the conference? How did they feel about it all?

HILARY: She's a sole parent. She had another child who was there, a younger child. At this conference there was something in the order of thirty eight people - not observers - in the circle, because she brought along about six of the uncles to be there, to be part of it. And I think that that was also really a valuable thing for her to know that, yes, those people could come along as a support and as a message almost to the offender that this kid had a lot of support. Because one of her fears was that as a result of the process and the confrontation- that the offender would now know more clearly what her child looked like and that there may be some ramifications.

Q: Further victimisation afterwards?

HILARY: Yes. And she saw this as a statement of the amount of support that the family was able to offer this child and therefore perhaps the offender would, if they ever thought at all before doing it, would think twice.

Q: Well, having that team of uncles there, do you think that was also trying to send a message to her own child?

HILARY: I think so, yeah. Yes, I think it was a two-way thing. "This is how much support you've got!", and to the offender, "This is how much you know you're up against if you take us on".

This observation raises questions about interpersonal dynamics and the role of emotion in conferences. Having seen a handful of conferences now, has Hilary begun to notice any significant patterns?:

Yes, I guess the pattern - I mean it's a fairly obvious one - is that the victims and their families get upset, the parents and family of the offenders are defensive but angry with the child, or whoever, involved. The offenders tend to not be very verbal, articulate and to be very defensive and often very difficult to get...You know, there were several times when Terry would ask a question and there would simply be no answer because those people wouldn't want to answer. The second week, I guess there was a couple of things that happened which stand out in my mind. There was one particularly elderly lady who had been robbed and the process - that you'd be aware of, the question-answer; I mean, there's a set structure - there was no way that Terry could maintain that structure and he said later that that wasn't important. Any time a question was directed at anyone, this elderly lady, emotionally, would come in with "And you did this!". And again - going back to the week before - she needed to do that, I mean it was a venue where she could do that and she would lecture the offenders and say things like, "When I'm speaking to you, get your hair out of your eyes and look at me" and it was really...it was real, not aggressive confrontation, but *real* confrontation: "This is how this lady feels; you've done this!". And of course, then, the parents and the sisters and people would get very critical of the daughter, sister et cetera, who'd committed the offence. Almost to say: "We're not all like this - we've tried really hard with this kid, the rest of us are really good people, we've done our best!", but at the same time saying: "Why did you do this?". So I guess I had some concerns - and I raised this with Terry - whether these kids who are offenders but who are in fact caught up as victims in their own set of circumstances, this is just one more area for them to be dumped on and not only dumped on, but dumped on publicly by their families.

Q: Well, *semi*-publicly.

HILARY: Yeah.

Q: Well, having seen that, do you think they *were*? It's a criticism being made - that these kids are being humiliated when in many cases, not in all cases, but many cases, they are victims of the circumstances they live in?

HILARY: Yeah, I think the process itself tends to...The fact that they are then drawn in as support people and they are given tasks and they want the best, you can tell that

they want the best for their kids. They just seem to need to distance themselves, stand back slightly, justify their own positions. But then, because of the process, they're drawn back in. One or two are drawn back in to be *specific* support people and that, I felt, leaves the whole situation with a really positive note because they go away thinking: "Yes, this child is going to spend some time helping me and my community". One of the parents does community work and the daughter was now going to be with her and the potential is for the bond between mother and child to be enhanced because of that time. Now, I'm not doing the follow up to know what actually happens, but because of the enlisting of the support of the families, it just seems that there is something that everyone can grasp on to in terms of the offender and their family: "Yeah, okay, it's not just being left, there is something - we can take away, some action that we can do as a result of this that's going to make amends".

Hilary is pleased but not surprised by the high rates of compliance with conference agreements recorded by the local police. She relates these statistics to the cases with which she has been involved:

HILARY: So of those seven kids, I think there probably were two that I would wonder whether there was any emotional reaction to what they had done - on the surface.

Q: They seem defiant. As an aside, can you describe their facial expressions through the conference?

HILARY: Well, as I have just said, often it's not making eye contact, downcast eyes, withdrawing, "I'm trying to withdraw from the situation". But having said that, because of the seating arrangements, often I couldn't see the facial expressions. When I was the observer right up the back, that was very difficult.

Q: But you were still getting the message from the facial expression?

HILARY: Mmmm. Yes. Another interesting thing was...[long pause]...two things stood out: One was some people not having the opportunity...

Q: ...to speak their mind?

HILARY: Mmmm. Another thing I guess - going back to the elderly lady - was they had been able to restore something like \$4000 of hers that was taken. The thing that she kept coming back to was a manicure set which her brother had given her in 1918 and he had died only last year, and where was it? And part of the agreement at the end was for them to think: "where did you put that manicure set? This is really important to this lady". And I thought, "Yeah, I can understand that". Because in the normal course of bonds and things like that, the one thing that you desperately were attached to and did want back, nobody necessarily noticed that. You tell a police person at a desk that, "Look, I really want that manicure set back" and they sort of make a note - and who knows what happens? So...I really found that a valuable part of the process, that someone who desperately wanted to get something back - I don't know whether she got it back - but she had the opportunity to say: "This is how important this is to me".

Q: And the kids at least suggested that they would try to find it?

HILARY: Yes. So that I thought was really, really valuable.

Given her support for the use of conferences by police, then, what role does Hilary see for the process in schools:

HILARY: I guess I think that if we want to stop things like bullying [pause]...and violence, and if we want to get kids back, I wouldn't want to be quoted on this...Sometimes in schools, kids get the rough end of the stick. A process is put into place. To me it just seems that this particular structure would allow more thought, more involvement, more engagement, more understanding of why that kid...you know. For instance, I was at a thing yesterday and we were talking about bullying and one of the counsellors said, "I had a child referred to me for a violent outbreak". He got to the bottom of it and the violent outbreak was a response to months of bullying and teasing. Now, what may well have happened had it been violent enough was, that kid might have been suspended. We would never have found out the circumstances leading up to that suspension. So to me, allowing kids to ventilate how they are feeling, bringing in kids and saying do you realise how this person feels when you do this to them...Going back again - we've just had an anti-bullying in-service conference at the end of last term and we are doing some follow-up work on that, so it's clear in my mind - there is a method called the method of common concern where, if you have a child...Are you familiar with it, the Pikas method?

Q: Yes.

HILARY: Where you break up the group of bullies and the victim and you bring them in individually and you ask for their cooperation and you put it in that framework. And what people are finding, to their amazement, is that the kids are more than happy to be cooperative and to try and support one another. And you give them a task to do and it would seem that this is working now. I think, when they realise that another child is getting a hard time and that it's not fair and you're appealing to their sense of what's fair and what's not fair.

Q: So you say that they do respond to the notion of a sense of justice?

HILARY: Yeah, because I think a lot of things that happen in schools - especially between teachers and students - are because the students perceive that what is being done to them for whatever reason - they've got their own framework which may or may not be skewed - it's not fair. So if you can frame it as: "This is fair. Is it fair for you to have done this to this kid when he didn't ask and has never hurt you?". And this arena allows for that to happen...I see it as really positive.

This discussion of responses to school bullying raises the vexed issue of perceptions about violence. Does it appear to be increasing among young people?:

Yes I believe it is increasing...As to what's causing it - I don't know.

Q: Do you think combinations of, say, this conference process and something like the Pikas method might be a way of diffusing it?

HILARY: Yes. And I think if you're looking...I mean, one of the interesting things was, we were developing this conference called "Towards Non-Violence". (As a little

aside: It was out at CSU and with the wonderful signing they do there, of course, they had all these sort of green signs with fingers saying "Towards non-violence". We felt there should have been another sign that said "Towards violence"! But when we were looking for speakers to do with violence, we did some investigating and ended up with some people on bullying. And when people think about bullying - and you've got a continuum and here's violence up this end, bullying is sort of somewhere down here - it's something that happens and we don't hear that much about it.

Q: It's low level, but it's consistent violence.

HILARY: Yeah, and it's what escalates. When you get the violence that hits the headlines, the chances are that for the most part there's been that level of bullying and teasing and oppression. It's been there until something happens to escalate it. So it was quite interesting for me to think that, "Yes, we are really addressing violence by dealing with it further back down the continuum when its called 'bullying', when it has a lesser connotation to it".

HOME SCHOOL LIAISON OFFICER

Yet another educator - and yet another interview offering multiple perspectives on family conferencing. This Home School Liaison Officer helped to forge many of the links between the beat police, the Police & Citizens Youth Club, and schools in Wagga Wagga. He has witnessed many conferences, is fully familiar with the relevant theoretical literature, and has a range of insights on both the process and ways to develop the model. In addition, he offers insights in this interview on the other two of three problematic cases mentioned above.⁸

The interview begins with a discussion of the history of the conferencing program, and of the relationship between school staff and police - particularly since the beat police unit was established. The relevance of the conference process to schools is considered in detail. Paul suggests that the process may prove particularly important for dealing with violent incidents. The importance of continuing cooperation between agencies is emphasised:

PAUL: The involvement of the education people with police can be seen to be tied up with community policing rather than the police *force* idea of the police. I mean, the police provide a service to the community and part of that service is sorting out these issues in logical and reasonable and investigative ways rather than the old control mechanism. I know that a number of the schools are aware of this process. Terry attended our "Towards Non-Violence" conference, and his sessions were attended by a large number of the people that were at the course and they were most impressed with the clarity with which he expressed the steps in the process and the sort of outcomes which they might be able to expect by using it in schools. So they were hungry to know more.

⁸ See footnotes 3 & 4 above.

Q: Well, that's what interests me about these recent education conferences - that they have focused on the issue of violence, and time and time again people have said: "This looks to be the way to go!". So they're not as obviously concerned with property offences as with this tougher issue. So it seems to me that a lot of people share this view that the conference process does represent a way of putting forward a wholly different philosophy. You seem quite confident that it will work?

PAUL: I think it will produce better outcomes than the alternatives that we have available. There are still some kids - as there are other adults - about where it's difficult to bring them on board in any process. They are people whom things are done to rather than with - some of these kids that have been present at family group conferences, and people have observed some remarkable changes in attitude and perception on the part of the offender who is not involved, not involved in a personal way.

Q: You mean not emotionally engaged?

PAUL: Yes, with the community as such - social conscience and that sort of thing.

Does Paul agree with a rough estimate that this is true of about fifteen percent of the young people who attend conferences?:

PAUL: Yeah, I'd be guessing but I'd say that would represent about the same percentage with, not necessarily just strictly violence issues, but if you're addressing general issues within the school of a student welfare nature, which might resolve in kids ending up in suspension, yeah there would be about that number of kids because the kids who are involved in violent issues aren't necessarily non-engaged.

Q: Yes, that's a good point. I think our thinking is that - and you probably share this - that most kids mess around, some of them get apprehended, and that a small proportion, maybe 10-15% - have some deep-seated psychological problems which no doubt extend from their broader social or personal background. So

PAUL: I'd say if you're looking at one-and-a-half dozen conferences, you'd find you'd have a lot of other things to deal with as well as the specific issues.

Q: Have you actually happened to have been in one where you've got one of these kids?

PAUL: Yes. It was a group of three young girls who had stolen from things from a woman's letter box and of those three girls, two were happy to engage in the process and the other one was not having a bar of it.

Q: Actually, I was at that, and I recall that she made the extraordinary comment that she couldn't contribute to any sort of reparation because it would get in the way of her being a street kid.

PAUL: That's right! She obviously had a model of herself that was contrary to this thing. It wasn't in her plot.

Q: That's one comment I will never forget - it struck me as extraordinary and yet in retrospect it makes a lot of sense. What did you make of that at the time?

PAUL: I knew from her background that she was anxious to be a naughty girl rather than a good girl and she came from a family which was - I hate the word - "dysfunctional", but a family that sort of didn't engage in the activities that we consider "normal" within a family structure.

Q: Well her father's had been the "disappear-and-then-return-drunk-and-bash" policy.

PAUL: And she'd been involved with a child sexual assault counsellor and that sort of stuff so her background was not conducive to social integration in the family I guess. But she wasn't believed.

Q: Interestingly, that particular conference also sticks in my mind because in the post-conference "mini conference", if you like, I think it was both the uncle and the grandmother who stepped in and said, "Well, it's time that we do something", and the conference almost sanctioned that. Did you have any follow up with her after that.?

PAUL: Oh yes, lots. Lots of follow up. But I didn't ever successfully resolve either her attendance issues or her personal issues, working as a Home School Liaison Officer. ...There were other people involved with her also - Department of Community Services - she was attending counselling at the Department of Community Health. But she opted not to involve herself in that - because, then again, there were all the issues that come from that sort of counselling that she had to address and she wasn't prepared to do that. She was, as you say with that classic statement, being a street kid. And those street kids have their mores and ways of working and thinking....

Q: ...that she was quite committed to.

PAUL: Yep, yes, she wasn't a street kid at all - she had a home to go to, but she liked the feeling of freedom and the shared responsibility of being a street kid. You know, they share this core set of values that are probably fairly contrary to what we would consider to be a useful set for people wanting to engage in the community...um...and so she sort of opted out. So she could opt out of the conference quite comfortably.

Q: Do you know if she's been in a fair bit of trouble since then?

PAUL: She's turned 15 and she hasn't managed to get herself into a lot of strife - I know her mother said she was driving a car at 15 and this sort of stuff but - and she regularly attracts the attention of the beat police in the early hours of the morning and this sort of thing - but she hasn't been murdered or engaged heavily in drugs. She hasn't done much good for herself or her parents. She was very streetwise in the sense that she was pretty good with her personal safety. I mean she was promiscuous but she had a good sense of self-preservation which may just in the long run save her from too dire a fate.

Q: Well that's certainly the case with some of these kids.

PAUL: And I think even though she didn't engage in the conference at the time she was actually physically a part of the conference and I know that it has affected her later, because of the relationship with Terry and being able to talk to him.

Q: She came down to the station and talked to him a couple of times didn't she?

PAUL: Mmm.

Q: It's interesting: The first study we had done on this - by social work students out at the university - found that, even among the small sample of 60 kids, they said a remarkable number had actually changed the way they saw police and were now using the police station as a referral service.

PAUL: Yeah, it creates a link and the process helps to create the link because it's a powerful process. And one of the children who was least likely to have much in the way of a social conscience actually rang Terry and congratulated him on his appointment to a position in Sydney. He wouldn't have had the faintest idea why, but it was in the paper and Dad must have spoken about it and so, when Darren had the opportunity he said, "Oh, that was a good thing, you got that job; I'm really pleased!". And a lot of it's dealing with the hot end of the stick in terms of juveniles.

Q: But that's interesting, because it's a good example of how you draw out potential that you just wouldn't have seen. That shows a lot of genuine caring. It doesn't surprise me, I think I know the guy in question, actually.

PAUL: A lot of stuff that grows from it is not exactly an intended part of the conference but the outcomes can be many and varied - and you can't always track them back to the conference - but just the contact, the chance to reflect on their lives, the chance to reflect on the incident, the chance to reflect in front of their support, their parents, the chance to reflect with the victim on the other side of the room - all those things are fairly good "reality therapy", I suppose. To put the kid in a position where, even if not willing to accept responsibility - which most of them do actually end up doing - they've had to sit down for forty minutes and carefully consider their position. And it might not have been something they've had to before...Sometimes - it's terrible to generalise, I know - but sometimes you can paint a picture of a parent, and often the kids I become involved with are truanting, but truanting is only a symptom. Truanting is part of more complex stuff, and I sometimes do this - as do Hilary and others - I sometimes draw a mental picture of these people, and I'll be surprised 25% of the time - maximum. The other 75% of the time, I'd be pretty close to the mark and that's just experience with the kids and the families. And very often the father figure - if the father figure is present - is a dominating...the old police style model.

Q: Command-and-control?

PAUL: Yes, yes. And is not effective in getting the kids to communicate because it's all top-down stuff.

Q: At a guess, do you think there is a potential for these conferences to change the way that sort of disciplining goes on in households?

PAUL: We were only talking about this this morning! - with one of the head teachers at Wagga High - and we got around to the fact that family therapy is something which is terribly difficult to bring on board with families like this - especially as they're likely to opt out of the therapy when things improve. They'll respond to what you want them to do in crisis times - and a family group conference does follow a crisis time because there's been an incident which has upset them so you can work very effectively at that point in time. And if things then subside, the family will move back to previous patterns of behaviour and things will go on in their normal fashion

until another crisis arises and then they may call for help from a counsellor, from community health, from DOCS - or bring on board someone who can support them through this crisis. And if you are going to get into family therapy, it's a sort of ongoing, developmental thing and it takes a great deal of skill, and people who really can relate to the people they are talking to, and can bring on some development.

The question of appropriate optional follow-up services in the wake of a conference arises. Paul describes several models. The name given to these models is a sensitive issue, is it not?:

PAUL: Entirely! Entirely. One of the things I've been seeking out is parenting for parents who don't want it to be "parenting", parenting which is not desperately middle class as so much...There are lots of courses available on parenting but they're related to middle class problems, middle class people. What I need as a H[ome] S[chool] L[iaison] O[fficer] is an operation which involves low verbal skills, high pictorial comic material stuff - sit down and talk about it! Right. So its got to be a level of functioning which addresses the conventional family which is in trouble and some of the things which are common to them. They may both be unemployed to start with, they may have a large number of children, they may have say four or even more - and in today's climate that's a fairly large number - so their issues are tied up with baby sitting in the evening. There might be a drug or alcohol problem in the family which deters people from other objectives, every day. So the idea of making it sufficiently powerful, straight forward and effective, so that it can actually change the lives of people who are in this sort of dysfunctional mode, this way of operating which we see as totally non-supportive of each other...Terry used the word "boundariless" families - and it does...it doesn't matter whether you watch the television or throw a brick at it, you know, the rules aren't there, they haven't worked down either implicitly or explicitly to the state where they've worked out ways of relating to each other, ways of keeping their house clean, functional, tidy, who gets the money and how it's spent. All this sort of practical stuff is not a mystery, but it's just...I guess it's awareness. It's a chance to talk to somebody about, "How do we manage our budget? What do we feed the kids tonight? Do we go for the chips again or do we think of something else? Do we worry about our health or do we just drink on?" All these sort of things are practical things to talk about.

Many of these issues actually arise in conferences, and Paul offers some examples. Presumably some of the practical agreements reached in conferences have had some sort of immediate impact on the children in a family?:

PAUL: Absolutely! Again my experience is a little ragged, because it doesn't correlate perfectly with the kids who attend family group conferences but there are frequently kids on my caseload who are involved there as well. And I guess my initial involvement was because some of the more serious kids on my caseload that persist in non- attendance, the kids who are in trouble for violence at school, these sorts of kids were beating a track down there, so it was interesting to watch - when the family group model came on board - that, even if the kids didn't really become model citizens, the conference had influenced the way that they thought, not only about police, but about their own operation in terms of their family and their operation in the school context - especially if there was someone from the school there who had an issue connected with the actual incident that was being considered. So it's not just simply the incident which is being addressed, but a lot of side issues come in, which gives the chance for some sort of reintegrative approach. And I think Terry does that

very well and that may be tied to the fact that, oh, he's got brain on his head, but that he seems to be able to pick out the important things and feed to them, and ignore the side issues that aren't relevant to the reintegration process.

Does this argument support those critics who have argued that Terry O'Connell is an exceptional police officer, and that few other police could successfully convene a family conference?:

PAUL: A good quality coordinator will probably achieve high quality outcomes, but the guarantee of outcomes is built into the process. There will be - for those who consciously work hard to fight the process, that is - the offender who is involved as one of the girls among the three. You may not get any outcomes you seek there with her, but you'll still have the victim satisfaction stuff, which I see as really important, where the victim gets the chance to air their feelings, to make a contribution to decisions about reparation and other things associated with a particular incident that you can't just specify off the top of your head and generalise about that - because each one is different and I guess that is another important thing. Every one of the conferences you attend is different. Different in number, different in dynamic and so the coordinator does need to be fairly skilled. But the process itself - to me - is a process which has integrity. One would hope that there would be an overall set of strategies in terms of step-by-step-by-step-by-step development of the conference, which is very well documented and identified. I think we've got to that stage, but the coordinator needs to be able to have the perception to understand that there may be times when they might need to break, hiccough, come back, where they're going to be achieving something by doing that. So the conference, instead of running a line - and you're early conferencing experience as a coordinator would be that: follow the book, follow the book. These fellows will get better as they go along - so that they can still track the path but they may be able to achieve their outcomes by moving into side issues which are relevant to the overall development of the kid.

Q: Well, I'd say from the conferences I've seen - and I've seen a lot now - that there is a basic model emerging. They run, as you know, from forty minutes to over an hour, and they usually have three or four diversions which run for five minutes on side issues as far as the conference is concerned. But it strikes me that it's in those three or four diversionary periods that the sort of problems you're most concern with as a Home School Liaison Officer are beginning to be addressed.

PAUL: Yeah, for sure. And you can't predict where they are going to be. So you can design an overall model, but you can't guarantee that it will work for every coordinator and every conference. But you can say, "Well, this - as you say - 'process' has an overall integrity of itself". The theory is right.

Q: Well it's actually a theory of democracy put into practice. If you get a large number of people and have an open debate, the conclusion you arrive at will be a sort of Aristotelian "golden mean", the fairest outcome for all - which you could hardly compute mathematically. You just have to let that outcome find itself.

PAUL: And I guess as long as the people who are coordinating understand all that, there is not a problem. But the coordinators themselves will probably come to the conference with all sorts of backgrounds and issues and things within their own lives, so a particular conference may not be suitable for a certain coordinator.

Q: Well, just on that point: In the few that you have sat in on, were you thinking to yourself at the time "I'd be doing this differently, I'd have put a different emphasis on this issue or that issue"?

PAUL: Yeah - it's passed through my mind. And I guess, as human beings, we all come to any social venue with the baggage we carry from our own experiences and so we may be more attracted to a particular issue that we think then could be resolved than another particular issue. The conference could go on for hours in any case. It has to have a start and an end and it has to be a reasonably short period of time, so...

How might a school principal handle a conference differently from a police officer, then?:

PAUL: Just on the side, I don't see a coordinator's role as being appropriate to a principal, not if the incident takes place in their school. I'd hope that - yeah, fine - you could get another principal from another school or another head teacher to come and run it for you. But in your own school, to me that smacks of...you know, it's a problem. It's like having the Auntie of one of the offenders running the conference.

Q: You're not a neutral observer?

PAUL: Yeah, and you need to be, because you've got the coordinating role to conduct and you need to do that with whatever objectivity you can bring to the thing. Inevitably if you're closely involved as the principal, you've got too many other things that you want to attend to within the conference. You might have had a history of poor relations with a particular kid who is suddenly the victim or the offender as well. And so you won't bring a clean slate to the game. None of us ever do, but we can at least try to minimise the interference of background noise with the operation of the conference. Personal background noise.

SENIOR EDUCATIONAL DEPARTMENTAL VIEWS

If educators such as school principals and home school liaison officers were beginning to consider applications of the conferencing process in schools, what was the official position on this development? And how would such a development alter the relationship between schools and police in the district? Perhaps not surprisingly, when answers to these political issues were sought, some significant observations on the psycho-social dynamics of conferences were offered.

The interview begins with some historical background from the departmental perspective. At the personal level, then, when had this particular officer experienced her first conference?:

KIM: It was this year. It was a particularly difficult one, and at that stage, Terry said it was the hardest one that he'd had to convene.

Q: Was that with multiple offenders?

KIM: Yes, and it also had the potential to blow into a racial...matter. And...I was impressed with it, although I had some concerns for the offenders. But because I've

also been involved in children's court, it was interesting to compare the two approaches.

Q: Could you do that in twenty five words or less?

KIM: Well, I suppose in children's court the offenders turn up, they're not really...there's no real...shaming process - not that I'm into making people just feel so disgusting that, you know, they feel totally shameful for the deed that they've done and they carry that for the rest of their life. But I suppose in children's court the facts are just delivered, and the offenders are no real part of that. They're just sitting back there with their legal representation and there seems to be a lot of dialogue going on that doesn't involve the kids. The other thing is that there isn't victim representation as such. The compensation side of things was something that was usually not involved, apart from a reprimand and some sort of a bond that usually goes with it. So in terms of the victim feeling that justice has been done, in terms of the offenders facing up to the consequences of their behaviour, I really don't believe that happens in a court situation, and I was particularly impressed with one of the family conferences I saw because it was a young offender that had everything going for him, and the resolution for that I felt satisfied all parties, and this young boy went away without having a blot on the rest of his life.

Q: Were you surprised at how successful it was?

KIM: Yes, it was...I mean, I deal with lots of really heavy, sad issues - especially child protection, one of my main briefs - and I don't tend to get very emotional, I've learned to sort of step back, but I found it a very emotional experience just as an observer. The thing that worried me with one conference I saw was that the...young offenders were from particularly difficult family situations, and the people who attended it, the care givers, dumped on them the whole time.

Q: To deal with their own shame at being there?

KIM: Yes! And there were also lots of things that I knew about those kids from a counselling point of view, issues that just didn't come out. And that was not the time and place for that to come out either, I realise that. But the feedback that I got from the kids afterwards - the offenders - was really interesting, because their classroom teacher said that they were *extremely* worried about going through the whole process and facing up to the consequences of their behaviour. They...also had individual contracts to do some work in community service, and it turned out that one particular boy made a very close association with the community leader that he was working with and that provided some stability in his life that otherwise would not have occurred. So yes, I believe it has potential. The thing that worries me is the person that is the mediator or the conciliator or whatever...I don't know what Terry calls...

Q: Coordinator.

KIM: Coordinator! I mean that's the crucial thing in all of this. It's *so* crucial.

Q: Well one of the criticisms that has been levelled at this scheme from the outset is that, "Yes, it might work with this one person who's set it up, but it won't work with other people". On balance, do you think that might be a valid criticism?

KIM: I agree, for sure. But, I mean, given the correct training and skill development, surely that resource can be built up so that you do have people that can do it. Now, when we're looking at it in a school situation, the thing that we've thought about is that, whether it does perhaps need a policeman to do it...

Q: That's interesting. I've just had a school principal say to me - on balance, having thought about it - he thinks that's the case too, because in the past he's run rudimentary conferences with the parents of two kids who've been involved in bullying, and he felt it went out of control because he didn't have the authority that a police officer has.

KIM: Yes, yes. And I've known of cases too where we've had kids that are in situations where they've had a tremendous amount of school counsellor intervention, they've had peer advisers helping them, parents have come to us for assistance, and it's only when the police become involved, through parents going to them - and I don't think in this case that I'm citing now that any great crime had been committed - it involved a child leaving home - that parents were quite happy to come to come to this meeting because of police involvement. And I don't think we would have had the power to do that.

Q: Well the related issue is that police here, unlike their colleagues in New Zealand, seem to have had no problem here getting victims to come along, with their supporters. There have been problems...

KIM: Yes, because I think there's still that perception in the community that if you go to court, justice will be done, and, you know, the "pound of flesh" will be, you know, dealt out...And so I think in the minds of some people it may be a soft option. But when they actually get there, I think, that's when there is a turn around and I would believe that most victims *would* go away with a feeling of satisfaction. And I don't believe that court does that.

If this process is engaging people in a way that court does not, is there not also a danger that the conference could be more humiliating than court?:

KIM: I don't know whether it's humiliation; it's more a realisation of the seriousness of what they've done...and in several cases you could see that those kids *really* regretted it and they were very, very sorry...and it was real. Because I suppose the offence comes in right there, you're confronted with it there and then, you're confronted with your actions, you can see how it's...And I don't like the idea of humiliating someone to the point of...Humiliation to me is to, I suppose, to the point where you're made to feel the most disgusting person, that your self-esteem, you know, is never going to raise itself...too far above the ground. That gets back again to the person that's controlling the conference. Because I suppose there is that potential there...to really humiliate that person to the point where...they might just get outside and then, you know, end it all. So that's a fine line, and I think that's in the hands of the person that's controlling the whole show.

Q: Mmm. But I think that the criticism has been based on this assumption that if the kids are made to feel remorseful, that remorse will stay with them and eat up whatever self-esteem they've got...

KIM: But in theory that should not happen, because of the support people that are there. And that's another very skilful thing that Terry has been able to do, in terms of parents and guardians. They may not be supportive of their child, but there's always another significant person in that kid's life. And that's really important.

Q: We've found they've been people involved through school or sport, but also members of the extended family. Did you find that in the conferences that you...

KIM: Yes, yes...There were uncles and grandmothers..

Q: I was just going to say "uncles and grandmothers"!...

KIM: Oh, were you? Yes, an uncle or grandmother...

Q: ...but I'd prefer you said it! It's an interesting observation - that the grandmothers are very strong and the uncles are too.

KIM: Mmm.

Q: Were there also younger siblings there?

KIM: Yes, and that was, in one of the conferences, that was very important, because it had affected the family life and these kids had been affected, and they were able to say things. Again, that was a skill that Terry...Being very positive, so that they

weren't going to feel that their older brother was a deadshit, you know. It was, there was always positive outcome. In another case, the children were very young and they were, I found, a distraction. They would have had no idea what was going on. And so, you know, we had a bit of an interruption there with parents sort of wanting to control these younger siblings. [Jack] found that in a conference that he attended - that's my husband - it was an extremely long conference, it went for hours...

Q: That's unusual. The average time's forty five minutes to an hour.

KIM: No, this went for hours, and it was even more difficult, I think, than the ones I attended. And there were younger children. I found it very distracting, and wondered whether it was necessary to have them there.

The advantages and disadvantages of younger siblings attending is discussed further. Kim has clearly given a good deal of thought to the application of conferencing in schools. Her suggestion that police be involved is potentially contentious:

KIM: It's very...it is. I suppose what I like about it is the process, because I feel too often in the schools, whether it's bullying or victimisation or somebody's hurt[?] somebody...usually it's a bit like court. The offender is brought into the principal's office and gets a...rap over the knuckles, you know, and told not to go anywhere near the person that they've upset or, I suppose, directed to go and say sorry. I mean, the principal maintains the ownership, a bit like the magistrate, I suppose. And I think it's got potential there, in recognising the harm of the person, who harmed this other person, and I think we could learn from it. Griffith High School is actual using it, at a school level, without police, and they're finding that it really has a tremendous amount of potential.

Q: Really? That's just happened recently, has it?

KIM: They've been using it for a couple of months. And schools are moving more down that area in terms of settling grievances at the school level.

Kim suggests that the use of conferencing in schools is simply a natural extension of peer mediation. Police involvement is appropriate - though Kim has concerns about the use of conferencing for "minor" sexual assault cases. This raises a sensitive political issue:

Q: At the moment, it strikes me that the official departmental line on cases of so-called "minor" sexual assault - no matter how traumatising they are for the victims - is to apply the command-and-control model as strictly as possible. That is, strict law enforcement with maximum penalty. And I have my suspicions that, in the long term, that's not the way to go, and will lead to all sorts of problems. But I can't understand precisely why that's the departmental line.

KIM: The reality is though, the reality is that very, very few cases go in there now...

Q: Well, that being the reality....

KIM: And I just wonder how much victim satisfaction there is with that.

Q: Absolutely!

KIM: And we know the reality of what happens when it goes to court. So you're caught in this dilemma of: Do you put the kids through a court experience? - which can be quite horrendous for the victims - or do you just shelve it and say, "Well, we know that that happened; that's as far as it goes?". We're addressing sexual harassment with students, and there are grievance procedures coming in for that. Certainly for racist behaviour, we've got grievance procedures for that. But - and all forms of discrimination - but...

Q: Do you think they are potentially too...overly bureaucratic? - the grievance procedures.

KIM: I think it's a start.

Q: But how greatly, for instance, would they differ from a conference process? Where you've got an obvious incident of harassment or some form of victimisation, would it not be appropriate to arrange a meeting - a mediated meeting - between victim and offender, with the support groups - much as the police have done?

KIM: I mean that's basically the process, but it's interesting in that, when I was running ...I had to run a few training sessions for staff...They were very worried about the supporters being there. But I've been running conferences for school attendance for a long time, and I always allow people to bring a support person so that - maybe the parents are not sending the kids to school [?] - I always allow people to bring a support person and I have never found that to be a difficulty. In fact it's a plus.

Q: Well one of the principles we've felt, basically, is "the more the better" - within logical reason. That is, at a certain point, everybody has a certain number of people who mean something in their lives. But I can think of very few cases where you wouldn't advocate getting as many people as possible. Would you agree with that?

KIM: Oh yes, yeah. I find that it's a very positive thing to have those support people there.

Q: My suspicion is that one of the reasons people are against that is that it's moving away from the command-and-control model.

KIM: Oh, for sure, for sure. And I think that they feel threatened that that support person's going to sort of end up like a solicitor and, you know, perhaps intervene in a way that's going to undermine their control of the whole process.

Despite some opposition, Kim's colleagues have generally responded with enthusiasm to the conference process. There are, however, good reasons why the department is moving cautiously on the question of implementation. There is a range of potential pitfalls - even though the principle seems right:

KIM: Yes, and I...It is really encouraging to see the way some police have gone about this; because once upon a time I would never have gone to them.

Q: Again I've been surprised at how readily members of the education department have been involved with police - who have a reputation for head kicking - and one of Terry's reasons for getting involved with this was that he was doing several things at once. As a union official, he saw the potential to change police attitudes to dealing with young people, through actually experiencing a conference. Have you had a chance to talk to officers other than Terry about it?

KIM: Not specifically. I suppose they're all converts, the ones that I've spoken to. I have been involved in several community groups where there are police that are not involved but who have together to address problems on youth and I haven't agreed with the attitude that they have shown.

Q: Which was?

KIM: ...I guess they were wanting tougher measures; they were reflecting a lot of societal views on what we should be doing. There's crime and punishment and, you know, "they're all little shits", and you know...I understand...I mean, I can understand how they feel, because when you're working with these kids - and I've seen Home School Liaison Officers after three or four years getting burnt out and believing that every child that works the streets is like, you know...

Q: A monster!

KIM: A monster! And I think when you're working in that area, and you're working with that specific group, you can become very blinkered in your views on that particular group.

Q: Many police, understandably, also work within a system that says, "Deterrence works!". Their whole position in the criminal justice system is based on the notion that deterrence works.

KIM: And you see, we have that mentality. A lot of teachers still have it; many, many teachers. And I remember when corporal punishment was banned, and then it was brought back in as an option and it was really interesting. Because it was banned and we'd had to do without it, people became more creative in their options. And then - when we had the opportunity to say, "Well do we want to bring it back in?" - it was amazing - and I was at Wagga High, with a big staff - the staff were united in that they didn't want that cane brought back in. And we had a huge parent meeting where you still had a minority of parents who felt that we were being lenient and that we should reintroduce it or have it as a "last option" - whatever that means.

Q: Last options very soon become general options sometimes.

KIM: Yes...So I think though that you can change people, but they've got to see something in it for them and for everyone.

There is a discussion of the illogical belief that the best way to dissuade people from violence and victimising behaviour is to victimise them violently. Finally, the discussion turns to the emotional effect of conferences. Kim describes being affected even as an observer, sitting at the back of the conference room:

KIM: Oh, I did! And I was sitting with three or four Federal Police and, you know, they were just squirming...

They have since been trained as conference coordinators for the Community Police in the Australian Capital Territory.

Reflections of a Youth Worker

Here is an instance where the professional and the personal are perhaps a little more difficult to separate than usual. Nick is a well-respected and sympathetic youth worker who has been based at more than one refuge in the district. He attended the conference presented as case eight in the previous chapter - in which he received an apology for being "slapped in the face". The refuge where he was working at the time of this interview had also dealt with the case of Matthew, discussed by Matthew's mother, Kathy, above. Nick was generally supportive of the Wagga model - but also keen to point out some pitfalls:

NICK: I don't know, like I said on the phone the other day, I've seen some successful - sort of what seems to be successful - and other ones...But knowing the kid's history and following them through the work I do, probably the ones where the kids haven't re-offended have been...sort of at that stage anyway. Like there is Greg, who was...just breaking away from the refuge scene and all that sort of stuff. And he'd just been accepted into boarding school out at Walla Walla. So that was all going to go ahead. Yeah, so...but then there was another one, too, I went to, which was hugely successful. The guy put a knife in a coke bottle and - in Bi-Lo or something. And so - he had a whole lot of other offences too, that had to go to court - more serious offences. But Terry must've decided to just do this one in front of the caution

panel - and it only turned out being the kid, myself, Terry and Bi-Lo's Manager. And we all sort of stood in this office. It was really small, and the lady was saying; "It's done this to the staff, it's cost this much, 'cause coke goes everywhere and it took somebody half an hour or so to clean it up, so it's all wages and that sort of stuff". And he...some of his payback for it was going to be to come in one Saturday morning for a couple of hours, and he agreed to that and he went in and did it and they offered him a job out of it! The lady's reaction was what I found most amusing. She said, "Oh, I was young once and I did some pretty foolish things and I'd like to see this, you know, this young boy get a chance so, if he wants to come and do some part time work and things..."

This happy outcome - quite common in similar cases - contrasts with the case that Nick offers as an example of what can go wrong in a conference. He begins by describing the circumstances of the young man who had been staying at the refuge:

He left home under the...saying he was sick of the violence at home...continuing violence with his mother and stepfather and stuff.

Q: Had both of them been violent to him?

NICK: Yeah, and between them too, they sort of fought all the time...And ah, it was just a mess. He was involved in breaking into a school with a couple of kids who belonged to a family that he was staying with and they were very, very middle class. Looked like the well adjusted sort of functioning family and...the kid was actually going really well at their house reportedly. One Sunday they all got together and broke into a school, and the damage wasn't...too serious. But because all the families were involved there was...two other kids. Two kids from that family and another kid, so there was four altogether including the kid I was there for. And so Terry invites all of their family and I mean *all* of their family. There was an old grandfather there, there was...an Aunt, a couple of uncles and, you know, you could tell it was a real family sort of scene. Members of those families were going to be easy to get, and then we had Tim and his mother who was...Things started at six o'clock and Tim was saying to me; "Oh, they're at home and they're having a fight. Steven (the stepfather), he's not going to come, he's not going to show up". It took them till about twenty past six, and his mum came down the street. She...she wasn't with the stepfather and she brought along an auntie...as a support person for her, I think. That's what she was meant to be. And basically the thing just turned into a..."let's, let's pick on Tim", and like a whole lot of family stuff came out.

Q: And his mother and aunty did that?

NICK: Yeah, oh yeah, and the other people too. Not as *direct* but they all tended to insinuate that Tim led astray *their* kids and you had Tim who was there dressed in tracksuit pants that he'd had - and a tracksuit pant top that had holes in it - that he'd been wearing for the last four days since he'd been at the refuge. He didn't have any other gear. Ah, you know, so there was a lot of insinuations going on about Tim had led them astray and it really wasn't fair at all, and a whole lot of family stuff came up and I just thought, that...this was a terribly inappropriate place for this stuff to be going on. There was...ah, it just got horrendous. The fact that Tim's father passed away when he was very young and the fact that he wasn't told that this father he had was his stepfather till he was about six, for some reason that all came up as well. He got thrown at him by his mother, "Do you know what'd be happening if your real father was still alive?" Through all this, "You would be black and blue! That's how he'd be dealing with it! You'd be black and blue". Oh, it just got horrendous. I just felt the kid got dragged through a whole lot of stuff.

Q: And no-one came to his support?

NICK: Ah, yeah, at times. But I think even the way the mother and aunty operated they even got ahead of the real problem. Terry tends to use pauses a real lot. He operates quite slowly and he thinks a lot about what he's saying, which direction it's going - which is fantastic - but when you've got two antagonistic people like this who just want to pin this kid down and call him a little fuckin' bastard, - 'cause that's what they thought he was...It just doesn't work. I mean, I tried to offer them support - we all did - but every time there was an opportunity for them to jump, "And do you know what else Tim!!". You know, like this? And often it was over the top. It became like screaming over the top of Terry trying to say...trying to sort of calm them down.

The supporters, Nick suggests, failed to provide adequate support. What about his own role - had he discussed the conference with Tim?:

NICK: Oh...yeah. I talked to the boy about it. But his whole reaction by that stage of it was just, "Oh, fuckin' glad its over with, glad I fuckin' didn't have to go to court, glad it's over with. Fuck it! Fuck it!". And um, you know, that's the way this particular kid's been behaving ever since that day, unfortunately.

Q: Yeah, but, does he still...get into trouble with the police?

NICK: Yep!

Q: Is it...violence or assaults or just property?

NICK: No, no a series of break and enters. Oh, he was suspended from the school actually during that time. That was for an assault. But...from what I know the police were around today looking for him for a break and enter into a cake store. He's got another one pending, a break and enter...

Q: Is he doing that with other people?

NICK: Yeah, yeah with other kids, yeah. Yeah, I mean, so that was the most sort of horrific one. That really shocked me.

Q: What did the victims do in that case?

NICK: Well if you had...when all the stuff about physical abuse came up, you had this old fuddy grandfather saying: "When I was a lad it was alright to get a couple of kicks up the butt, but you youngies!". You know?

Q: He was one of the victim's supporters?

NICK: Oh no, he wasn't a victim - who was the victim? Oh well, the victim was the school, the only victim they had there was the school...headmaster of the school who sat there through the whole proceeding and didn't do much at all.

Here, then, was one of the weaknesses of this particular conference - there was only an "institutional" victim. His role in the conference was minimal. This appears to have allowed the focus to shift from the specific incident to Tim's general failings - in the eyes of his angry relatives. Would it have helped to have had some students from the school who were affected by the break and enter - rather than the authority figure of the principal?:

NICK: Oh, there were a few little kids there, mainly to do with the other family

Q: Yeah, but all that would do in terms of the dynamics of the conference is increase the mother and the aunt's shame about the son. Because that's always why they do it.

NICK: Yeah, sure!

Q: They behaved atrociously but...where the thing...the ones I've seen that worked well - and as you say, you've seen a few - worked where there was sort of balance and nobody could get away with that outrageous further victimisation.

NICK: Yeah, yeah.

Q: Difficult one though. Sounds like, I mean, if he'd gone to court and got a bond, which is probably what he would've got first time,...

NICK: Well, as Terry always says at the start of it: "If at any stage you want to stop it and go to court, you are entitled to". Halfway through it, I really felt like shoving Tim on the shoulder and saying, "Look mate, get out of this" - you know? - "This is shit...Just stand up and say I don't want to talk!". I really felt like saying that to him.

So Nick had felt angry on Tim's behalf ?:

NICK: Yeah! I just felt the whole thing was a bloody mess, terrible.....yeah. And that. I've seen it work in other ways too. Where we had another boy he'd...he'd left home and it appeared as though he came from a perfectly good home, got a massive house out at Lake Albert that they all built themselves, and the kid had left home. It seemed to be over a TAFE issue - got pressured into a course that he didn't want to do. He wanted to drop out and dad was pretty shitty about that and they didn't communicate properly. And he...just did the bolt. When he did the bolt - I don't know whether it was through guilt or whatever - there was absolutely no way he wanted to see his mum and dad. Couldn't face them. And...come the cautioning panel, it was either, "Come and face your mum and dad now or the whole thing's going to go to court". And the very next day, after the cautioning panel ...I'd got him lined to start at a place called...ah...Triple Care - down near N___ Valley. It's a place run by the city mission, they can go down and stay for about three months and do a farmhand course and farm work. So I'd arranged for that - 'cause he'd even done the bolt from the refuge and was basically living on the street. So he came and saw his mum and dad and all that family stuff came up and the kid was quite shitty in it, through a lot of it. But by the end, his sister drove him to the house he was staying at and he just started communicating again with mum and dad. It really was...it was stuff I'd been trying to do for months with this kid. And through a cautioning panel - and Terry even wrote down as one of the conditions of him leaving that, "When I go to Triple Care, I have to write home once a week" - which he's started doing now. So I, you know, I left that one going...I was still staying, "You bastard, Terry O'Connell" - but for different reasons! I just thought, "Wow!"

Comparisons are drawn between these observations and similar comments made by school educators. Does Nick have a working explanation for the apparent efficacy of the conference process in "getting through" to young people?:

NICK: Well in this case, his mum and dad had always felt a lot of hurt and I used to relay that to him all the time, saying: "Look, your know your mum and dad have come to the fact now that you've pissed off and you want a bit of freedom, or you want whatever. But they're really upset, you know? Your mum, especially" - his mum was really upset about it all - "Couldn't you just...write home, ring them occasionally, let them know you're safe? That's all. They're basically still worried about...". And he used to say: "No, no, no!". And on this night, he saw his mum and his sister burst into tears over the whole situation. And it was the first time ever since he'd left home that he'd actually witnessed the hurt that he was causing. I mean, he'd heard it from me and...other people all the time, but he actually got to *see* it first hand.

Q: Or feel it?

NICK: Yeah! And he'd just missed his sister's birthday, that was about two days before or something and he hadn't done anything for that and she said: "It was my birthday two days ago and he didn't write to me and she burst into to tears. All the time the

kid just sat there going: "Fuck this! Why is this family stuff happening now? This is not fair, blah blah blah". And Terry'd sort of have an answer for that and...well you know, along the lines of: "Well, it has to be dealt with now. It's all part of your actions that you've been doing lately and this is what we're here for. Yeah, so I guess that was an aspect that...he's got the law over him...It's either: "Go to this thing or you go to court". So that gets the kid there, and I guess you just get to see first hand, you know, what he's doing is looking back. The actual incident itself was pretty minor - him and two other kids stole a kid's motorbike.

Q: Yeah, that's quite a common one too, isn't it?

NICK: Yeah.

Q: "Group theft of motor vehicle". Motor bikes are popular.

NICK: Yeah, yeah. So...that was the same sort of dynamic, dealing with all the family stuff and I thought - in Tim's circumstances - I thought that, you know, this shouldn't be happening to this kid. It's terrible, you know? Like I say, I felt like telling them to call it all off. And yet, on the other hand, I've seen it work, where it's worked wonders for the family, yeah.

Q: And you've seen four all up - or three all up?

NICK: Four

Q: Four right - and two worked well, one was going to happen anyway, and one was a disaster?

NICK: Yeah.

Nick discusses the way conferencing is perceived among some of the young people at the refuge. He identifies some problems of inefficiency in the local justice system, and is concerned about continuing delays in the processing of cases. With regards to conferencing, he would like to see more a systematic official follow-up. For the toughest cases, however, Nick certainly doesn't claim to have any easy answers. No one knows how to deal with the case he has already described:

NICK: No, it will be a long time yet. But I mean, it was an extremely difficult situation, and it still is. No one knows what to do with him...Community Services won't touch him, because they don't know what to do. They've sent someone along to come and speak to him, talking about foster placements.

Q: Can he communicate with you reasonably well?

NICK: Ah, not really actually, and I've usually got a pretty good rapport going with kids

Q: Yes, that struck me.

NICK: Not...pretty much...I don't know. He just wants to run wild

Q: Super angry?

NICK: Yeah, yeah. I mean, the family dynamics, we don't really *know* what they are.

Actually, Nick does know a good deal about these dynamics, and explains them sensitively. The discussion then turns to the issue of how these complex dynamics influence the outcomes of conferences. Nick describes his own involvement in conferences. He is often frustrated by the difficulty of separating his role as supporter from his role as the victim of betrayals of trust by the young people with whom he works. In some ways, he would like to play a more active role in conferences. Clearly he has been hurt - as is everybody who works in this field - by such betrayals of trust. But some of these betrayals of trust are encouraged by a system that wavers between authoritarianism and permissiveness. His charges, he says, are constantly sent messages about the lack of consequences for their actions. He provides several examples:

NICK: There's other examples. Another kid I know had court back over in D_____, was living here in Wagga, got offered a bed with a mate in Canberra, went and took that, didn't get back to D_____ for his court case, so now he's got warrants out after him, and came back and the police knew where he was but no one comes and picks him up and he's got warrants which - for about four break and enters or something. He was meant to go to D_____ court. I rang his juvenile justice officer when he came back to Wagga and said, "What's this guy's sort of legal status now? He had a court date he didn't go to?". And she said, "Oh" - and, I mean, she's going to know how the system works and she said, "Oh yeah, he's got warrants over his head. If he does anything, you know, he's in big trouble". But at the moment they just, they...couldn't do anything. And he was always saying to me, "I can't go back to D_____, 'cause if I go back to D_____ the cops will pick me up, 'cause I've got more charges over there". I thought, "Shit, it's only an hour that way. If the police want to do something...". You know what I mean? It seems strange that they can let so many things just ride like that.

Q: Ah, well it's the reverse of the system that you should really, ideally want, which is certainty of detection - but a lenient but sensible response.

NICK: Yeah, yeah!

Q: But for whatever the reason, the system doesn't work that efficiently. So you're not certain of being detected, but if you are, you get an arbitrary response - which could be tough or could be nothing.

NICK: Yeah, yeah, teenagers they sort of operate on whatever they...whatever happens to them, you know? Things aren't a consequence for whatever actions, there isn't a consistent response...we talk about penalties and all that you know. If things aren't consistent and followed through and that, then they get bad, mixed messages and all that stuff.

Q: Have you been reading a parenting manual?!

NICK: No, no, no! (laughs) That goes back to college. I spent two years in a therapeutic intervention house - B_____ - another refuge in town. So that sort of stuff...

Q: So the whole system is sending them the wrong messages?

NICK: Oh I think so, yeah. If a kid's running round with warrants on his head, he's going to go: "Wow, cool" - you know? - "No one's picking me up" sort of thing.

Nick summarises his arguments in support of the conferencing model. The issue of necessary safeguards is discussed. These include the need for careful training and evaluation, and the need for an appropriate balance of conference participants - in order to avoid the sort of problems encountered in Tim's case:

Q: I suppose, given the position that you're in, you probably haven't had a chance to have feedback from parents and other guardians of kids about the process?

NICK: Not really...Greg's guardians, his mum's - oh well, his mum is sort of half...she's a pretty sort of sick lady...she was just more concerned about where the money was going, because forty dollars was coming in. Ah, yeah...Sam's mum and dad weren't there...Tim's mum thought that it was "just another fuckin' meeting, about this fuckin' kid's life that she was fuckin' sick of going to"...I ran a case conference on him last week and she wouldn't come. And...Greg, the boy that went to Wollongong the next day, his parents thought it was great process. Because they were right into it, you know? He got to see the hurt he caused his mother and that sort of stuff and they obviously thought it was a great process.

Q: You realise, in cases like that, how much parents are the real victims of the process.

NICK: How much parents are...?

Q: ...are the real victims of the process. They really get cut up.

NICK: Yeah, but there's really not many parents involved - I mean in terms of the offender - because most of these kids are...their parents don't give a shit - or they're not around.

Q: Yeah, well you'd see some of the hardest cases too, wouldn't you.

NICK: Yeah, I reckon. Yeah - and offenders.

This is a subtle reminder that "cases" always involve people - people who have been deeply hurt. The victims, offenders and their respective supporters whose voices are recorded here have provided some significant insights into the conference process. They are generally supportive of the process, but also offer useful suggestions for improving it and for improving the model in which the conference process operates. Before analysing their insights and suggestions, however, the views of one more group need to be considered. If participants in conferences are apparently transformed by the experience, so too are the officials responsible for convening conferences. In Wagga Wagga, of course, that responsibility has rested with police, and the introduction of the Wagga model seems to have influenced local policing in several ways. The next chapter considers the influence of conferencing on policing.

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.¹ 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

¹ 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.

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.² 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.

² 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.

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.³ 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..

³ 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.

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.

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.

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.

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.

CHAPTER 5:

AN ANALYSIS OF JUVENILE APPREHENSION CHARACTERISTICS AND REAPPREHENSION RATES

By Lubica Forsythe

INTRODUCTION

In August 1991 Wagga Wagga police patrol introduced a new system of cautioning juvenile offenders. Some of the police in this patrol were finding the traditional methods of dealing with juvenile offenders inadequate and thus were keen to try something new. A variation of the family group conference system, which had recently been introduced to New Zealand, was chosen. The family group conference (FGC) consists of convening a conference between offender/s, their family members, the victim/s, their family members, police and relevant community members. The aim is to discuss the offence and decide on an outcome which seeks to address the problems caused by the commission of that offence. For a full description of the New Zealand System the reader is referred to Maxwell and Morris, 1993.¹

The most fundamental difference between the New Zealand system and the one developed in Wagga Wagga is that the latter is based on local police convening family group conferences rather than convenors being drawn from the Department of Social Welfare as is the case in New Zealand. The New Zealand system was also enshrined in new legislation, whereas the Wagga Wagga program was developed under existing provisions for use of police discretion. These two differences resulted in differences in the processes leading up to and taking place during the FGC. In New Zealand, Youth Justice Coordinators do extensive preparatory work for each FGC with the various participants, particularly the offender/s. Issues such as why the offender committed the act and what reparation they would be prepared to offer are explored prior to the FGC. In Wagga Wagga the FGCs are of a more spontaneous nature. A police officer organises each FGC and convenes it without extensive preparatory work with the participants. The FGC process developed in Wagga Wagga has also been described by observers as being less offender oriented than that in New Zealand and more incident centred. The focus is on repairing the harm caused by the crime. Other components of this evaluation conducted by David .B. Moore describe in detail the FGC process developed in Wagga Wagga and provide many quotes from transcripts of FGCs which give fascinating insights into their dynamics.

¹ Family, Victims and Culture: Youth Justice in New Zealand by Gabrielle M. Maxwell and Allison Morris, Social Policy Agency *Ropu Here Kaupana* and Institute of Criminology Victoria University of Wellington, 1993.

There are a few issues which need to be mentioned here regarding the manner in which the FGC program started in Wagga Wagga patrol. Firstly, it was a local initiative of police in Wagga Wagga patrol and there was apparently some internal opposition to the new process. The police who initiated the program and put it into practice were not trained in any formal way in how to conduct FGCs. They developed appropriate procedures and skills as they started to put the process into practice. As they progressed, they developed criteria regarding which juveniles should be eligible for FGC and then developed

appropriate procedures for this decision making process. (For further details on the selection criteria for FGC eligibility used in Wagga Wagga see Appendix 1). So, whilst the 1st August 1991 is the date given as the beginning of the FGC program in Wagga Wagga it should be kept in mind that this was the date from which the program started to be implemented and developed.

A program was developed where only juveniles apprehended in relation to very serious offences were to be automatically charged. The remainder (the majority) were told that they would be notified within 14 days of how police had decided to proceed. The arresting police would then meet with the 'cautioning sergeant' (the sergeant in charge of juvenile matters in the patrol) every week and assess each juvenile matter to decide how that matter would be proceeded with, that is, would the juvenile be cautioned or placed before the courts. The criteria on which this decision was made was different to that used previously. Briefly, under the traditional system of dealing with juveniles almost all were automatically placed before the courts. Generally, only those offenders who were very young, were apprehended for the first time and were apprehended in relation to a relatively minor offence were considered for a caution. Very few apprehended for a second time would be considered, even if their offence/s were minor.

The traditional caution involved the 'cautioning sergeant' officially warning the juvenile, in the presence of a parent or guardian, that any further apprehensions would result in a court appearance and an explanation of the possible ramifications of being placed before the courts.

Under the FGC program the emphasis was on dealing with as many cases as possible using the FGC and only placing juveniles before the courts if their offences were very serious, their criminal history substantial, they denied the offence or refused a caution.

In 1992 a grant was sought by Senior Sergeant Terry O'Connell (from Wagga Wagga Patrol) and David Moore (from The Centre for Rural Studies at Charles Sturt University), from the Australian Criminology Research Council to fund an evaluation of the Wagga Wagga FGC program. The evaluation was to have three components: a review of current criminology theory relating to juvenile delinquency, a qualitative component assessing participants' level of satisfaction with the Family Group Conference Program in Wagga Wagga and a quantitative component comprising of an analysis of available data on the Wagga Wagga program. This report was commissioned to fulfil the requirements of the third component of the evaluation with the main focus being on rates of recidivism.

It would have been very useful to the evaluation to have been able to ascertain the rates of compliance by offenders to the FGC agreements. Unfortunately, there was no accurate and consistent data available on the contents of FGC outcome agreements nor on offenders' compliance with these agreements. Police in Wagga Wagga patrol indicated that at the conclusion of each FGC they invited the victim/s to contact the police should the offender/s not comply with the agreed outcome. Their anecdotal evidence suggests fairly high compliance based on the fact that they report rarely being contacted by victims

in this regard. However, there are very obvious limitations inherent in measuring compliance in this manner and such claims should be treated with caution. Hopefully, future evaluations of FGC programs will be in a position to accurately record the contents of FGC agreements and measure compliance rates.

RESEARCH METHODOLOGY

Research Design

The study described in this report was initiated in October 1993, over two years after the introduction of FGC cautions in Wagga Wagga. There was approximately nine months available for its completion. These time constraints obviously put some limitations on the evaluation design. Data would be collected on the two years of FGC operation and it was desirable to have a control group with which to make comparisons, particularly on the issue of recidivism. After considering several options for a control group it was decided to collect data from Wagga Wagga patrol for the two years immediately preceding the introduction of FGC. This control group, even though drawn from a different time period than the FGC group, would at least be most similar in demographic characteristics and the type or style of policing they were exposed to.

The aim of using a control group is to have a group which is the same as the experimental group (that is, the group potentially exposed to FGC) in all aspects except the one which is being evaluated, (that is, the FGC program). The ideal way to do this would be to collect data for an evaluation from the time of the program's introduction. Thus, those offenders assessed as suitable for a FGC could be randomly assigned to either the experimental group (and receive a FGC) or the control group (and be placed before the court). This type of randomized allocation design allows extraneous variables to be eliminated and any differences observed could be accurately attributed to the experimental condition ie, the FGC program.

Taking into consideration the abovementioned time restrictions, the before/after design was chosen as the most appropriate.

Data Source

Data were recorded from Police CIRs (Crime Information Report). Theoretically, all juvenile apprehensions should have been recorded on CIRs. Crosschecking with details recorded in a 'Caution Book' (a book kept by the Cautioning Sergeant in which details of Family Group Conferences were recorded) revealed some cases listed in the book for which CIRs could not be identified and visa versa. The caution book itself, however, may

not have been 100% accurate. Anecdotal evidence suggests that CIRs are fairly diligently completed for juvenile apprehensions even if sometimes there may be a time lag between their completion, submission and computer entry onto the Police Service Crime Information and Intelligence System (CIIS).

Time Period Covered

The initial intention was to look at data for the two years preceding the introduction of Family Group Conferences, in August 1991, and data for the two years since. However, the earliest available CIRs were from January 1st 1990. Thus, the data set comprises of cases from 1st of January 1990 to mid October 1993 (which is when the data collection took place). Apparently, CIRs can take up to several months to be completed, submitted and subsequently filed. Therefore, there are probably cases dealt with by police in September and October of 1993 (perhaps even August) which are not included in the data set as the CIRs had not been filed at the time of data collection. This has been taken into account when designing various aspects of the analysis and appropriate warnings are issued throughout the text.

The data was organised so that various time periods could be used for analysis. Data can be presented by month of apprehension, in a 'before / after' format ('before' relates to all cases where the date of apprehension was between 1/1/90 and 31/7/91; 'after' relates to all cases where the date of apprehension was between 1/8/91 and mid October 93) and in periods of approximately six months. The last format consists of eight approximately six-month periods (1/1/90 to 30/6/90, 1/7/90 to 31/12/90, 1/1/91 to 30/7/91, 1/8/91 to 31/12/91, 1/1/92 to 30/6/92, 1/7/92 to 31/12/92, 1/1/93 to 30/6/93, 1/7/93 to mid Oct 93). 1991 was split into two unequal periods as FGC started in August of that year. By including July in the first half year, the first three time periods fall before the introduction of the FGC program and the subsequent five fall after its introduction. The last period was a short one as the data collection was done in October 93. These eight time periods are used often in the analysis as they contain a larger number of cases than monthly data but are often more informative than the simple 'before / after' view.

In the 'before / after' view, the former time period is shorter than the latter, ie: the first covers the 19 months from January 90 to July 91 inclusive, whilst the latter covers the 27 months from August 91 to October 93 inclusive. Therefore, frequencies in the 'after FGC' period are usually larger than those in the 'before FGC' period.

Counting Rules

There were 1165 cases in the data set. A case was constituted by police apprehending a juvenile and dealing with him / her in a formal way. Formal methods included the administration of a formal caution, being issued with a summons or court attendance

notice (C.A.N.) or being arrested and charged. Informal ways of dealing with juveniles such as warnings or informal cautions were not recorded.

One individual juvenile can constitute several cases if he / she was apprehended more than once during the study period. The data is arranged so that it can be analysed by case or by individual. There were 693 individuals in the data set.

Where the data is analysed according to individual, it is the first time an individual is apprehended during the study period which is represented. For example, 'age' for individuals, represents the age the individual was the first time he / she was apprehended during the study period. Some analysis is presented in the 'case' format whilst some is presented in the 'individual' format or both, depending on which is most informative. The most interesting and important aspects of analysing individuals, as opposed to cases, is when one looks at issues such as reapprehension rates and number of apprehensions per person. For a detailed analysis of cases and individuals see section below called 'Number of cases / individuals'.

RESULTS

Number of Cases / Individuals

As stated above there were 1165 cases in the data set. Looking at cases provides a view of the juvenile caseload police dealt with during the study period. In the time period before FGC was introduced there were 536 cases whilst in the period after its introduction there were 629 cases. As the latter time period is longer than the former, one would expect the total number of cases to be larger.

Figure 1 shows the number of cases dealt with per month for the whole study period. Each notch on the horizontal axis represents a month, beginning with January 90 (J90), February 90 (not labelled), March 90 (not labelled), April 90 (A90) and so on. The vertical axis represents the actual number of juvenile cases dealt with by Wagga Wagga Police.

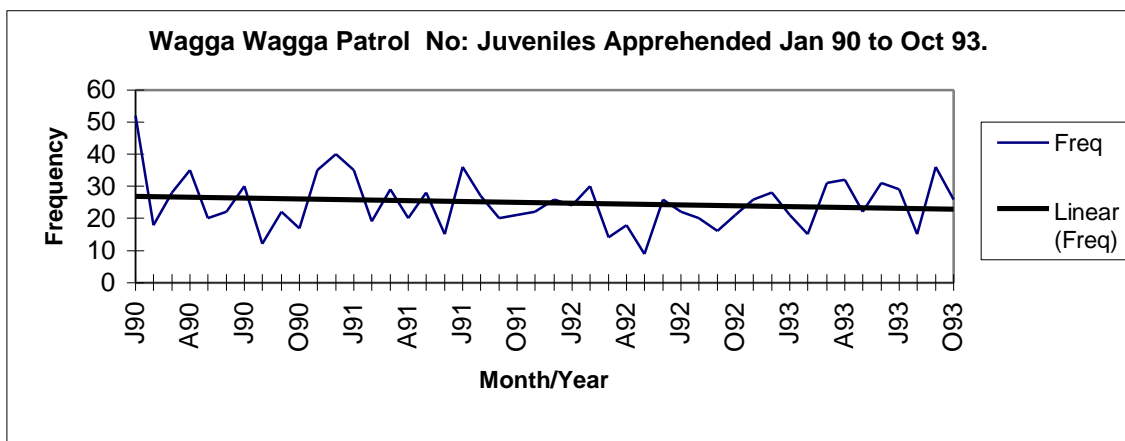


Figure 1

The graph shows large fluctuations in the number of juvenile cases dealt with monthly by Wagga Wagga police during the study period. However, when a line was fitted to the data it indicated that there had been very little change in the average number of juvenile cases dealt with during the study period. For the whole study period the average number of juvenile cases per month was 23.53; for the period before the FGC program was introduced the average was 25.65 and for the period after its introduction the average was 21.31.

Thus, the monthly data suggests there was no net-widening effect with the introduction of the FGC program. In fact, the average number of cases dealt with monthly actually decreased.

In January 1990 it appears there was a disproportionately large number of cases dealt with (52). This is due to the fact that the January 1990 CIRs contained some cases which were apprehended during the previous month but the CIRs were completed and numbered in January 1990.

Table 1 shows both the number of cases and individuals dealt with in each of eight time periods. There were fluctuations in the number of cases dealt with in each of these time periods but they were smaller than the fluctuations in the monthly case distribution.

There were 693 individual juveniles dealt with during the study period. It should be kept in mind that the individual is defined as such on the first time he/she is apprehended during the study period. This may explain why there is such a large number of individuals dealt with during the early part of the study period. That is, during the early part of the study period all juveniles were being dealt with for the first time during the study period; as the data collection continued chronologically many of the juveniles had been encountered before in this data set.

Table 1				
No: Individuals & Cases per Time Period				
Juveniles Apprehended Wagga Wagga Patrol Jan 90 - Oct 93				
	Individuals		Cases	
Time Period	Frequency	Percentage	Frequency	Percentage
Jan-Jun90	139	20.1%	175	15.3%
Jul-Dec90	107	15.5%	156	13.7%
Jan-Jul91	112	16.2%	182	16.0%
Aug-Dec91	70	10.1%	116	10.2%
Jan-Jun92	68	9.8%	121	10.6%
Jul-Dec92	70	10.1%	133	11.7%
Jan-Jun93	66	9.6%	152	13.3%
Jul-Oct93	59	8.5%	106	9.3%
Total	691	99.9%	1141	100.1%

Missing cases = 2 individuals and 24 cases. Missing cases are those where the date of apprehension was missing.

Note: Throughout this report the percentage columns may not always add up to 100% exactly due to rounding.

Sex Distribution

The sex distribution of juvenile offenders was around 82% males and 18% females both

Table 2				
Sex Distribution - Individuals & Cases				
Juveniles Apprehended Wagga Wagga Patrol Jan 90 - Oct 93.				
	Individuals		Cases	
Sex	Frequency	Percentage	Frequency	Percentage
Male	564	81.4%	960	82.5%
Female	129	18.6%	203	17.5%
Total	693	100.0%	1163	100.0%

Missing cases = 2 cases

for cases and individuals. The percentage of female juvenile offenders was a little higher than that recorded in the N.S.W. Children's Court appearances which has been at around 14% for the last three years of available statistics².

Age Distribution

² Annual Children's Court Statistics Criminal Matters 1990/1991, 1991/1992 and 1992/1993, Children's Court Information System, Policy, Research and Evaluation Unit, N.S.W. Office of Juvenile Justice.

Table 3						
Age by Sex - Cases						
Juveniles Apprehended Wagga Wagga Patrol Jan 90 - Oct 93						
Age in Years	Sex					
	Female	%	Male	%	Total	%
10	1	0.5	15	1.6	16	1.4
11	2	1.0	18	1.9	20	1.8
12	2	1.0	54	5.8	56	5.0
13	16	8.2	85	9.1	101	9.0
14	28	14.4	129	13.9	157	13.9
15	45	23.1	174	18.7	219	19.4
16	55	28.2	212	22.8	267	23.7
17	45	23.1	239	25.7	284	25.2
18 and over	1	0.5	5	0.5	6	0.5
Total	195	100%	931	100%	1126	100%

Missing Cases=39

The age distribution for males and females was fairly similar, the only difference being a smaller proportion of females were apprehended at the very youngest ages ie: ten, eleven and twelve. Consequently, there was a larger proportion of females in the older age groups of fifteen and sixteen.

There were a small number of juveniles who were eighteen by the time they were apprehended but were treated as juveniles as they were under eighteen at the time their offences were committed.

Table 4		
Age - Individuals		
Juveniles Apprehended Wagga Wagga Patrol		
Jan 90 - Oct 93		
Age in Years	Frequency	Percentage
10	12	1.8%
11	18	2.6%
12	42	6.1%
13	64	9.3%
14	100	14.6%
15	121	17.7%
16	144	21.0%
17	181	26.4%
18 and over	3	0.4%
Total	685	99.9%

Missing Cases=8

As with the sex distribution, the age distribution was very similar for both the case view and the individual view. The highest proportions of juveniles apprehended by police were either sixteen or seventeen years of age, accounting for almost half of those apprehended; 47.4% of individuals at the time of the first apprehension were aged sixteen or seventeen years, 48.9% of all juvenile cases apprehended by police were aged sixteen or seventeen years.

For data on the age distribution broken down by eight time periods see Tables 2-1 and 2-2 in Appendix 2. These tables show that the age distribution was fairly similar across the eight time periods. The variations evident are normal considering the small frequencies they are based on. When these eight time periods were amalgamated into the 'before FGC' and 'after FGC' groups, the age distributions were quite similar for both groups.

Racial Appearance

At the time of apprehension, police record the racial appearance of an offender. The table below shows that juvenile offenders in Wagga Wagga were predominantly of white racial appearance. There was a small proportion of Aboriginal offenders and just a handful of other races. The distribution was very similar for both the case view and the individual view. Nor does the distribution differ between offenders apprehended before the introduction of FGC or after.

Table 5				
Racial Appearance - Individuals & Cases				
Juveniles Apprehended Wagga Wagga Patrol Jan 90 - Oct 93				
	Individuals		Cases	
Racial Appearance	Frequency	Percentage	Frequency	Percentage
White	585	88.8%	997	88.3%
Aboriginal	61	9.3%	117	10.4%
Pacific Islander	3	0.5%	4	0.4%
East Asian	5	0.8%	5	0.4%
Indian	2	0.3%	3	0.3%
Middle East	1	0.2%	1	0.1%
Mediterranean	1	0.2%	1	0.1%
Other	1	0.2%	1	0.1%
Total	659	100.3%	1129	100.1%

Missing cases = 36 cases, 34 individuals.

Occupation of Offenders

Table 6 presents the frequency and proportions of juvenile offenders in each of various occupational categories. The largest proportion of both individuals and cases were students at the time of their apprehension.

Table 6				
Occupation - Individuals & Cases				
Juveniles Apprehended Wagga Wagga Patrol Jan 90 - Oct 93				
	Individuals		Cases	
	Frequency	Percentage	Frequency	Percentage
Occupation				
RAAF Apprentice	11	1.6	11	1.0%
Trade Apprentice	22	3.2	26	2.3%
Farm Worker	4	0.6	13	1.1%
Retail & Service	13	1.9	16	1.4%
Catering	7	1.0	13	1.1%
Labourer	12	1.8	21	1.8%
Other	3	0.4	3	0.3%
Unemployed	213	31.1	491	42.7%
Student	399	58.3	557	48.4%
Total	684	99.9%	1151	100.1%

Missing cases = 14 cases, 9 individuals.

Unemployment rates were calculated for the individual view by dividing the number of unemployed by the number who are in the workforce and over the age of 15 years. It makes more sense to look at unemployment rates for individuals rather than cases, as a small number of unemployed people who are reapprehended many times will 'push up' the unemployment rate of cases, as the same unemployed people may constitute many cases. Assuming that the employment status recorded by police is correct (and anecdotal evidence suggests that this is an accurate assumption), the data reflects disturbingly high unemployment rates for juvenile offenders in Wagga Wagga. The overall unemployment rate was 74.7%. The unemployment rate for males was 71.6% and for females 87.5%. The unemployment rate for juveniles of white racial appearance 69.7% compared to a rate of 100% for juveniles of Aboriginal racial appearance.

As with the age and sex distributions the occupation distributions for individuals was very similar before the introduction of FGC and after.

Offence Distribution

Up to three offence types could be recorded per case as well as the total number of offences relating to that particular apprehension. For example: a juvenile may have been apprehended and cautioned in relation to a shoplifting offence and a B&E offence. Whichever of these offences was committed first would be recorded as the 1st Offence and the second offence committed would be recorded as the 2nd Offence. In this case the total number of offences would have been two. Most cases were apprehended in relation

to one offence only (71.5%), but there were a few cases where the total number of offences relating to an apprehension was quite high (see Table 7). However, as most cases were apprehended in relation to one offence only the offence tables will generally show the first offence coded unless otherwise specified.

Table 7 Total No: Offences - Cases Juveniles Apprehended Wagga Wagga Patrol Jan 90 - Oct 93		
No:Offences	Frequency	Percentage
1	829	71.5%
2	171	14.8%
3	71	6.1%
4	39	3.4%
5	16	1.4%
6	7	0.6%
7	10	0.9%
8	4	0.3%
9	4	0.3%
10	2	0.2%
12	3	0.3%
27	1	0.1%
28	1	0.1%
33	1	0.1%
Total	1159	100.1%

Missing cases=6

The offences were recorded and later categorised according to second level ANCO codes³ (The codes are detailed in Appendix 4). This level most accurately portrayed the types of offences committed by juvenile offenders. The broader first level codes were too broad - many of the offences included in each code were not applicable to this data set.

³ ANCO 1985 ABS, Catalogue No: 1234.0

Table 8						
Before FGC - First Offence by Sex - Cases						
Juveniles Apprehended Wagga Wagga Patrol Jan 90 - July 91						
Offences	Female		Male		Total	
	Frequency	Percentage	Frequency	Percentage	Frequency	Percentage
Assault	15	14.9%	35	8.1%	50	9.4%
Sexual Off	0		8	1.8%	8	1.5%
Robbery	0		8	1.8%	8	1.5%
BES & Unlaw Entry	13	12.9%	58	13.4%	71	13.3%
Fraud & Misap	3	3.0%	3	0.7%	6	1.1%
Stolen Goods	6	5.9%	5	1.2%	11	2.1%
MVT	8	7.9%	35	8.0%	43	8.1%
Other Theft	35	34.7%	151	34.9%	186	34.8%
Property Dam	8	7.9%	36	8.3%	44	8.2%
Off Ag Just Proc	3	3.0%	18	4.2%	21	3.9%
Weapon/Firearm	0		5	1.2%	5	0.9%
Oth Good Order Off	10	9.9%	56	12.9%	66	12.4%
Possess Cannabis	0		11	2.5%	11	2.1%
Drink Drive	0		2	0.5%	2	0.4%
Other Driving	0		1	0.2%	1	0.2%
Telecom	0		1	0.2%	1	0.2%
Total*	101	100.1%	433	99.9%	534	100.1%

Missing cases = 1

Table 9						
After FGC - First Offence by Sex - Cases						
Juveniles Apprehended Wagga Wagga Patrol Aug 91 - Oct 93						
Offences	Female		Male		Total	
	Frequency	Percentage	Frequency	Percentage	Frequency	Percentage
Assault	16	15.8%	51	9.7%	67	10.7%
Sexual Off	1	1.0%	4	0.8%	5	0.8%
Robbery	3	3.0%	5	1.0%	8	1.3%
BES & Unlaw Entry	5	5.0%	107	20.4%	112	18.0%
Fraud & Misap	2	2.0%	5	1.0%	7	1.1%
Stolen Goods	3	3.0%	16	3.0%	19	3.0%
MVT	5	5.0%	22	4.2%	27	4.3%
Other Theft	40	39.6%	183	34.9%	223	35.6%
Property Dam	8	7.9%	50	9.5%	58	9.3%
Off Ag Just Proc	5	5.0%	31	5.9%	36	5.7%
Weapon/Firearm	0	0	2	0.4%	2	0.3%
Oth Good Order Off	10	9.9%	23	4.4%	33	5.3%
Possess Cannabis	2	2.0%	12	2.3%	14	2.2%
Supply Cannabis	0	0	2	0.4%	2	0.3%
Grow Cannabis	0	0	2	0.4%	2	0.3%
Drink Drive	1	1.0%	6	1.1%	7	1.1%
Other Driving	0	0	3	0.6%	3	0.5%
Telecom	0	0	1	0.2%	1	0.2%
Total*	101	100.2%	525	100.2%	627	100.0%

Missing cases = 1

Tables 8 and 9 above allow a comparison of offence types for cases dealt with before the introduction of FGC and after. If the offence distributions were markedly different, then depending on the differences, one may also expect differences in how cases were proceeded with. However, there were no such notably large differences in the offence distributions.

It should be noted that the number of females was relatively small, so even small variations in frequency may appear large when expressed as percentages. The offence distribution for females is remarkably similar in the two groups. For both groups of females the largest category of offence is 'other theft' (34.7% before FGC and 39.6% after FGC), followed by 'assault' (14.9% before FGC and 15.8% after FGC) and 'Other Good Order Offences' (9.9% before and after FGC). The 'Break, Enter & Steal (BES) & Unlawful Entry' category decreased from 12.9% before FGC to 5% after FGC, however, in actual numbers this only represents a drop from 13 to 5 cases.

The total number of male cases in the 'after FGC' group was larger than the number in the 'before FGC' group. This is to be expected as the 'after FGC' group covered a longer time period than the prior group (August 91 to October 93 which is 27 months compared to 19 months from January 90 to July 91). It is surprising that the number of female cases was exactly the same for both groups.

For males the largest offence category was also 'Other Theft' (34.9% before and after FGC). The other large offence categories for males apprehended were BES & Unlawful Entry (increasing in both number and percentage from 58 (13.4%) before FGC to 107 (20.4%) after FGC), assault (35 (8.1%) before FGC and 51 (9.7%) after FGC) and property damage (36 (8.3%) before FGC and 50 (9.5%) after FGC). MVT and Other Good Order Offences both dropped in numbers and as a proportion of total offences by males. MVT numbered 35 (8%) before FGC and 22 (4.2%) after FGC whilst Other Good Order Offences dropped from 56 (12.9%) to 23 (4.4%).

Overall, the two largest offence categories both before and after FGC were Other Theft and BES & Unlawful Entry, together accounting for around half of all offences relating to juvenile offenders apprehended (48.1% before FGC and 53.6% after FGC).

Property Values

The CIR forms from which the data for this study was extracted, allow for property values to be recorded where offences involved property. The property value may refer to property stolen or damaged; in some cases it may have been partly or wholly recovered. The largest offences category for offenders in this study was 'Other Theft' which included shoplifting, stealing from motor vehicles, stealing from homes and stealing from the person. It is interesting to note that a large proportion of theft offences involved relatively small values, for example, over one-quarter involved values of less than \$20.00. Around two-thirds of theft offences involved goods with a value of under \$100.00. There were no

great differences between the values of property stolen or damaged before the introduction of FGC and after.

Table 10						
Property Values for Theft Offences by Before/After FGC						
Wagga Wagga Patrol - Cases						
	Before FGC			After FGC		
\$ Value	Frequency	Percentage	Cum Perc	Frequency	Percentage	Cum Perc
0	2	1.2%	1.2%	11	5.5%	5.5%
1-19	54	30.6%	31.8%	57	23.0%	28.5%
20-39	22	12.9%	44.7%	29	14.5%	43.0%
40-59	23	13.5%	58.2%	17	8.5%	51.5%
60-79	19	11.2%	69.4%	9	4.5%	56.0%
80-99	2	1.2%	70.6%	12	6.0%	62.0%
100-119	4	2.4%	73.0%	13	6.5%	68.5%
120-139	1	0.6%	73.6%	5	2.5%	71.0%
140-159	11	6.5%	80.1%	2	1.0%	72.0%
160-179	1	0.6%	80.7%	1	0.5%	72.5%
180-199	3	1.8%	82.5%	0	0%	72.5%
200-299	17	10.0%	92.5%	13	6.5%	79.0%
300-399	3	1.8%	94.3%	13	6.5%	85.5%
400-499	2	1.2%	95.5%	3	1.5%	87.0%
500-599	6	3.5%	99.0%	4	2.0%	89.0%
600-699	0	0%	99.0%	5	2.5%	91.5%
700-799	0	0%	99.0%	4	2.0%	93.5%
800-899	0	0%	99.0%	1	0.5%	94.0%
900-999	0	0%	99.0%	1	0.5%	94.5%
1000-9999	2	1.2%	100.2%	11	5.5%	100.0%
10,000 +	0	0%	100.2%	0	0%	100.0%
Total	170	100.2%		200	100.0%	

Missing = 16 cases before FGC, 23 cases after FGC

Break, Enter and Steal (BES) was the second largest category of offence for juveniles in the study. It includes break and enter offences where there was no theft, as well as unlawful entry to premises. In fact, just over 10% involved no property theft or damage (see table below \$ Value = 0). Nevertheless, the property values relating to BES offences were considerably higher than for theft offences. As with theft offences, the distribution of property values did not vary significantly from offences committed before the introduction of FGC to those committed after.

\$ Value	Before FGC			After FGC		
	Frequency	Percentage	Cum Perc	Frequency	Percentage	Cum Perc
0	6	10.1%	10.1%	12	13.2%	13.2%
1-19	4	6.8%	16.9%	4	4.4%	17.6%
20-39	2	3.4%	20.3%	2	2.2%	19.8%
40-59	4	6.8%	27.1%	8	8.8%	28.6%
60-79	1	1.7%	28.8%	4	4.4%	33.0%
80-99	1	1.7%	30.5%	1	1.1%	34.1%
100-119	3	5.1%	35.6%	11	12.1%	46.2%
120-139	3	5.1%	40.7%	0	0%	46.2%
140-159	1	1.7%	42.4%	0	0%	46.2%
160-179	0	0%	42.4%	0	0%	46.2%
180-199	0	0%	42.4%	0	0%	46.2%
200-299	3	5.1%	47.5%	7	7.7%	53.9%
300-399	4	6.8%	54.3%	7	7.7%	61.6%
400-499	5	8.5%	62.8%	2	2.2%	63.8%
500-599	5	8.5%	71.3%	3	3.3%	67.1%
600-699	1	1.7%	73.0%	4	4.4%	71.5%
700-799	2	3.4%	76.4%	7	7.7%	79.2%
800-899	1	1.7%	78.1%	1	1.1%	80.3%
900-999	0	0%	78.1%	1	1.1%	81.4%
1000-9999	11	18.6%	96.7%	15	16.5%	97.9%
10,000 +	2	3.4%	100.1%	2	2.2%	100.1%
Total	59	100.1%		91	100.1%	

Missing = 12 cases before FGC, 22 cases after FGC

Victims

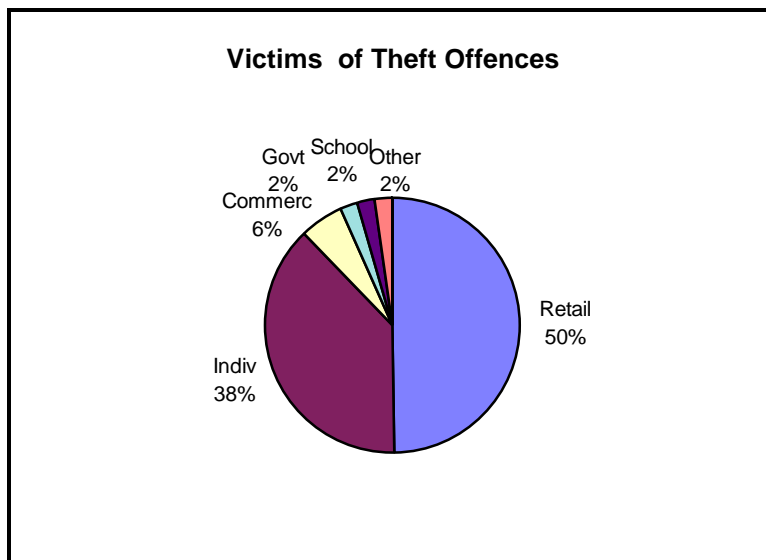
For each juvenile apprehended, the victim of the 1st offence was also recorded. The types of victims were categorised and the table below shows their distribution. By far the largest category was that of 'individuals', that is, an individual as opposed to an organisation, business, the government or the crown. Individuals were victims in many different ways, for example, when their homes or cars were broken into, when their belongings were stolen or as a result of an assault. Retail premises, the second largest category were usually victims of shoplifting offences. The crown was the victim of offences such as justice offences and good order offences.

Table 12		
Victims of 1st Offence - Cases		
Wagga Wagga Patrol Jan 90 - Oct 93		
Victim Type	Frequency	Percentage
Individual	480	41.8%
Retail	254	22.1%
Regina	175	15.3%
Commercial Prem	91	7.9%
Schools	66	5.8%
Government	49	4.3%
Licensed Prem	18	1.6%
Church	9	0.8%
Hospital	1	0.1%
Unknown	4	0.3%
Total	1147	100.0%

Missing cases = 18

The following graphs show types of victims for the largest property offence categories. Theft offences (that is, other than motor vehicle theft) were most likely to have been committed against retail outlets (50%) or individuals (38%). Commercial, government and school premises accounted for only a small percentage of theft victims. The 'other' category consisted of churches and licensed premises.

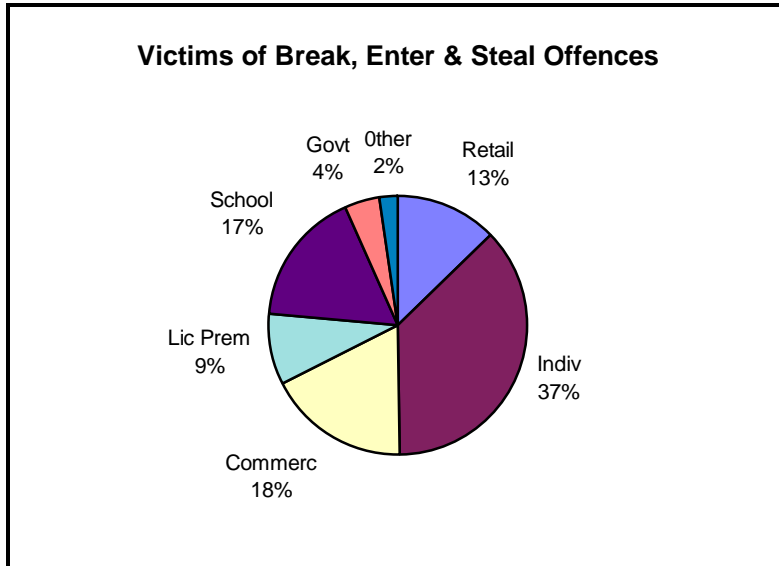
Figure 2



The victim distribution for break, enter and steal offences (see Figure 3) was quite different to that of theft offences, with individuals comprising the largest group (38%). Individuals in this context refers to private homes which were broken into. Commercial

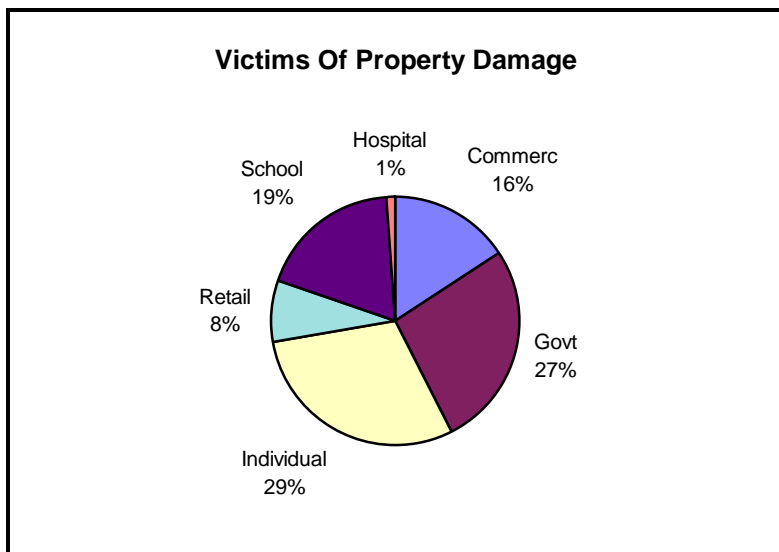
premises and schools comprised the next largest categories, accounting for 18% and 17% (respectively) of break, enter and steal victims.

Figure 3



Property damage was the only other major property offence category which had a variety of victims (see Figure 4). Property owned by individuals and governments accounted for 29% and 27% (respectively) of victims. Schools comprised the next largest category at 19%, followed by commercial premises accounting for 16%, retail outlets 8% and hospitals 1%.

Figure 4



Number of Apprehensions

When looking at the number of apprehensions it is more logical look at the number per individual rather than per case. Table 13 indicates that of the 693 individual juveniles in the data set, by far the majority were apprehended only once during the study period in Wagga Wagga Patrol (72.7%). A much smaller proportion was apprehended twice (13.3%) and three times (6.1%). The number of juveniles apprehended more than three times was very small.

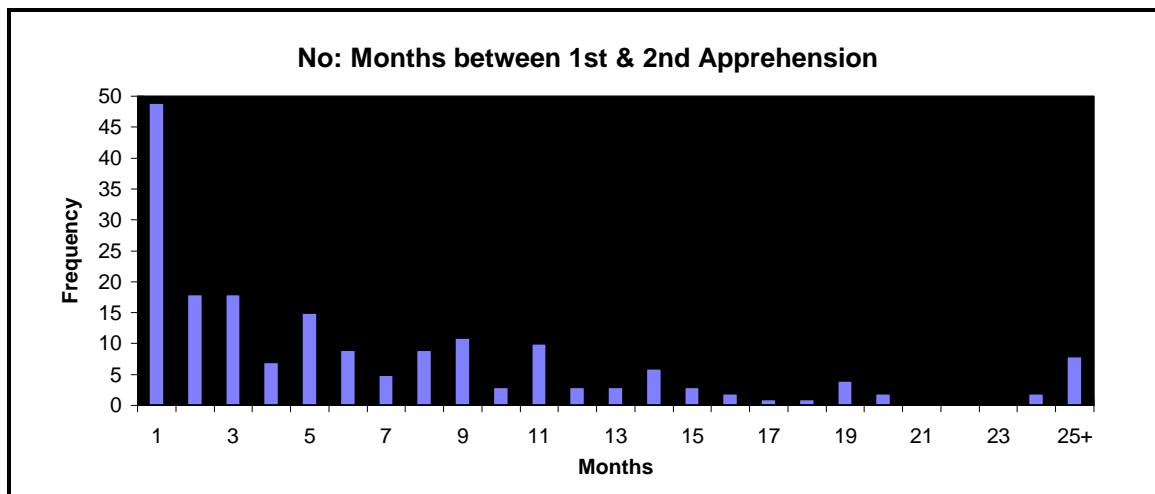
No: Arrests	Frequency	Percentage	Cum Perc
1	504	72.7%	72.7%
2	92	13.3%	86.0%
3	42	6.1%	92.1%
4	17	2.5%	94.6%
5	11	1.6%	96.2%
6	12	1.7%	97.9%
7	6	0.9%	98.8%
8	2	0.3%	99.1%
9	1	0.1%	99.2%
10	2	0.3%	99.5%
11	3	0.4%	99.9%
14	1	0.1%	100.0%
Total	693	100.0%	

Length of Time Between First and Second Apprehension

For those juveniles who were apprehended more than once, Figure 5 shows the number of days between their first and second apprehension (the frequencies this figure is based on are provided in Appendix Table 2 - 3). One quarter (25.9%) were reapprehended within one month, almost one half were reapprehended within four months and almost three-quarters (74.6%) were reapprehended within nine months of their first apprehension during the study period. The number of days since last apprehension for these juveniles ranged from zero (ie: reapprehended on the same day) to 1116 days or 36.7 months. The mean number of days between first and second apprehension was 193.3 days (6.4 months). The 5% trimmed mean was 168 days (5.5 months).⁴

⁴ A 5% trimmed mean is where the top 5% of outliers are eliminated from the mean calculation.

Figure 5

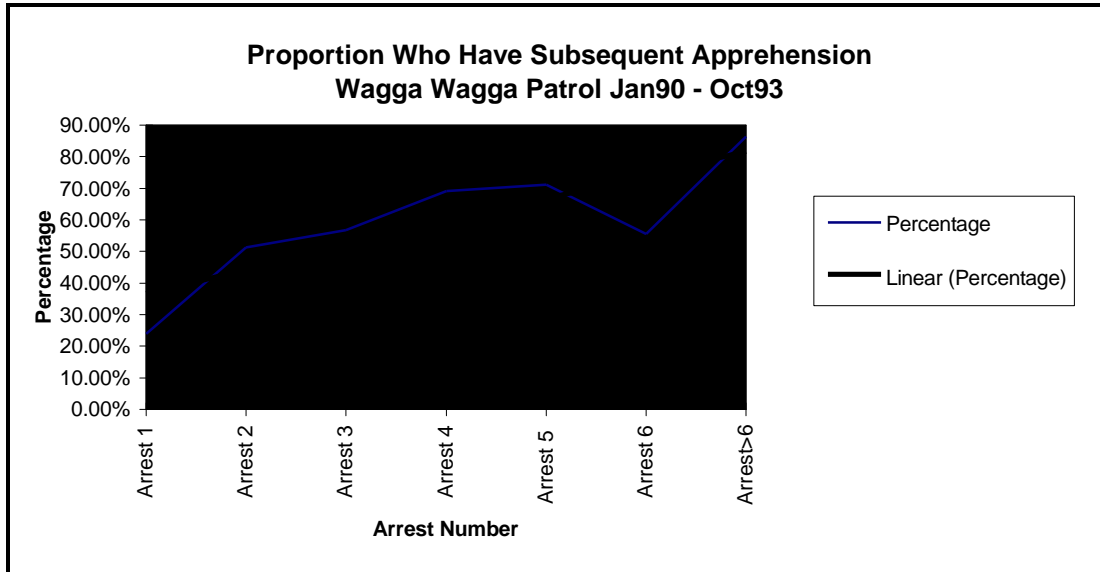


Likelihood of Further Apprehensions

Figure 6 shows the percentage of cases apprehended a certain number of times who went on to be apprehended again. For example, of those apprehended once (all individuals in the data set and shown on the graph as ‘arrest 1’) 23.9% went on to be reapprehended. Of those apprehended a second time (shown on the graph as ‘arrest 2’) 51.3% went on to be reapprehended again and so on (the percentages this figure is based on are provided in Appendix Table 2 - 4).

It appears that the more times a juvenile was apprehended in Wagga Wagga, the higher his/her chances were of being apprehended again. There was a decrease in the percentage going on to further apprehensions after the sixth apprehension but the general trend was definitely an increasing one.

Figure 6



Time Between Apprehensions

The data indicates (see Table 14) that as the juveniles in this study experienced more apprehensions, the time elapsing between apprehensions became shorter. The biggest decrease occurred after the fifth apprehension in this study, which occurred on average 78.9 days (2.6 months) after the fourth apprehension. This is a big decrease from the average of 143 days (4.7 months) between the third and fourth apprehensions.

Apprehension No:	Trimmed Mean*	Standard Deviation#
2	168.0	215.8
3	138.9	204.7
4	143.0	234.8
5	78.9	108.5
6	73.3	111.6
>6	50.6	64.6

* 5% Trimmed Mean rounded to one decimal place

Standard Deviation rounded to one decimal place

Offence Distribution for Second & Subsequent Apprehensions

The offence distribution for second and subsequent apprehensions was similar to that relating to first apprehensions. As with the previous offence analysis the first recorded offence for each apprehension was used (for each apprehension there were up to three offences recorded, although by far the majority of juveniles were apprehended in respect of one offence only).

For second and subsequent apprehensions a smaller proportion of offences were in the 'Other Theft' category; 28.1% compared to 40.6% of first apprehensions and the proportion of Break, Enter & Steal offences was larger than for first apprehensions; 20.3% compared to 12.6%. Similarly, Offences Against Justice Procedures represented 7.1% of second and subsequent apprehensions compared to 3.6% of first apprehensions.

Offence	1st Apprehension		2nd & Subseq Apprehensions	
	Frequency	Percentage	Frequency	Percentage
Assault	65	9.4%	52	11.6%
Sexual Off	10	1.4%	2	0.5%
Robbery	6	0.9%	10	2.2%
BES	87	12.6%	91	20.3%
Fraud & Mis	10	1.4%	3	0.7%
Stolen Goods	15	2.2%	15	3.3%
MVT	48	6.9%	19	4.2%
Other Theft	281	40.6%	126	28.1%
Property Dam	65	9.4%	34	7.6%
Off Ag Just Pr	25	3.6%	32	7.1%
Weapons	4	0.6%	3	0.7%
Oth Good Ord	51	7.4%	44	9.8%
Poss Cann	18	2.6%	7	1.6%
Supply Cann	0	0	3	0.7%
Grow Cann	0	0	2	0.5%
Drink Drive	4	0.6%	1	0.2%
Other Drive	2	0.3%	2	0.5%
Telecom	1	0.1%	2	0.5%
Total	692	100.0%	448	100.1%

Missing cases = 25

How Cases Were Proceeded With

There were three ways in which the majority of juvenile cases in the data set were dealt with: the administration of a formal caution, the issuing of a Court Attendance Notice (CAN) or arrest and charge. In addition, a small number of cases were issued with a

summons, two cases were extradited to another state, several cases coded as ‘other’ would have been issued with a caution but couldn’t either because the juvenile left the Wagga Wagga area or was admitted to hospital. There was only one case where the manner proceeded with was unknown and this case is generally shown as ‘missing’.

For ease of interpretation the different ways of proceeding can be collapsed into two categories: ‘court’ and ‘caution’. The ‘court’ category includes those charged, issued with a CAN or summons as well as those extradited. It was assumed that those extradited interstate would be placed before a court. The ‘caution’ category includes those cautioned as well as those in the ‘other’ category who were intended for a caution but due to certain circumstances the caution was not administered.

Table 16				
Manner Proceeded With - Cases Before / After FGC				
Manner Proceeded	Before FGC		After FGC	
	Frequency	Percent	Frequency	Percent
Caution	205	38.2%	326	51.9%
Court	330	61.6%	303	48.2%
Unknown	1	0.2%	0	0
Total	536	100.0%	629	100.1%

Table 16 shows there was a change in the manner in which cases were dealt with when the FGC program was introduced. In the period before FGC, 38.2% of juvenile cases were cautioned, whilst after the introduction of FGC this proportion increased to 51.9%. With the increase in cautions there was a proportionate decrease in cases being put before the court. It should be kept in mind that Table 16 includes all cases of juveniles apprehended, that is, from first offenders to those who had been apprehended many times.

Table 17									
Manner Proceeded With by Time Periods - Cases - Frequency									
Time Period									
Manner	Jan-Jun90	Jul-Dec90	Jan-Jul91	Aug-Dec91	Jan-Jun92	Jul-Dec92	Jan-Jun93	Jul-Oct93	Total
Caution	45	62	89	55	77	86	71	37	522
Court	130	94	93	61	44	47	81	69	619
Total	175	156	182	116	121	133	152	106	1141

Missing cases = 24

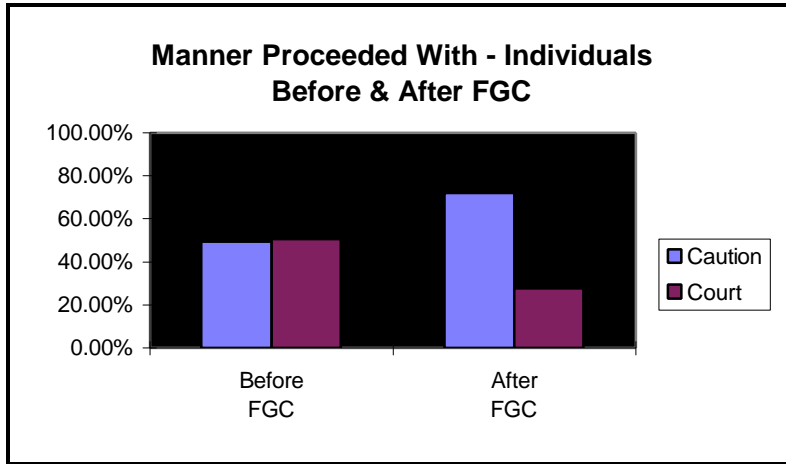
Table 18									
Manner Proceeded With by Time Periods - Cases - Percentage									
Time Period									
Manner	Jan- Jun90	Jul- Dec90	Jan- Jul91	Aug- Dec91	Jan- Jun92	Jul- Dec92	Jan- Jun93	Jul- Oct93	Total
Caution	25.7%	39.7%	48.9%	47.4%	63.6%	64.7%	46.7%	34.9%	45.7%
Court	74.3%	60.3%	51.1%	52.6%	36.4%	35.3%	53.3%	65.1%	54.3%
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

Missing cases = 24

Tables 17 and 18 show how cases were dealt with in each of the eight time periods. Whilst there was an overall increase in the proportion of matters dealt with by way of caution after the FGC program was introduced, there was a considerable amount of fluctuation.

The above analysis of how police proceeded with juvenile apprehended has been from a case point of view. This means that some cases were first offenders, some second offenders etc. A small proportion had considerable criminal histories. Later analysis of reapprehension rates will be based on the 'individual' view, that is, once a juvenile has been apprehended once during the study period (ie: the initial apprehension) will he/she be reapprehended during the study period? So Figure 7 is included to illustrate how police proceeded with juveniles at the point of their first apprehension during this study (the exact percentages on which Figure 7 is based are shown in Table 19). Of course, an offender's first apprehension during this study period does not mean it was his/her first apprehension ever. However, cases in the 'after FGC' group were more likely to be first ever apprehensions than those in the 'before FGC' group. The 'after FGC' group starts approximately one and a half years into the study period. If it is known that a juvenile has not been apprehended in the first one and a half years of the study period then he/she is more likely to be a first ever offender than those juveniles in the first one and a half years of the study for whom no prior history is known.

Figure 7



Even allowing for the abovementioned difference between the ‘before FGC’ and ‘after FGC’ groups, a dramatic increase in the proportion of individual offenders cautioned since the introduction of FGC is evident. Table 19 shows that before the FGC program was introduced approximately half of the juveniles apprehended for the first time during this study period were cautioned and half were placed before the courts. After the introduction of the FGC program 72% of juveniles were cautioned at the point of their initial apprehension and only approximately 28% were placed before the courts.

Manner Proceeded	Before FGC		After FGC	
	Freq	Percent	Freq	Percent
Caution	177	49.4%	240	72.1%
Court	181	50.6%	93	27.9%
Total	358	100.0%	333	100.0%

Missing cases = 2

Manner Proceeded With by Offence

The preceding tables show there was an increase in the number and proportion of cases dealt with by way of caution following the introduction of the FGC program, but what types of cases accounted for this increase? Table 20 shows each offence category by the manner in which such cases were dealt with before the introduction of the FGC program and after.

Offences	Before				After			
	Caution		Court		Caution		Court	
	Freq	Percent	Freq	Percent	Freq	Percent	Freq	Percent
Assault	7	14.0	43	86.0	26	38.8	41	61.2
Sexual Off	2	25.0	6	75.0	2	40.0	3	60.0
Robbery	0	0	8	100.0	0	0	8	100.0
BES & Unlaw Entry	13	18.3	58	81.7	47	41.6	66	58.4
Fraud & Misap	4	66.7	2	33.3	4	57.1	3	42.9
Stolen Goods	6	54.5	5	45.5	7	36.8	12	63.2
MVT	5	11.6	38	88.4	9	33.3	18	66.7
Other Theft	121	65.1	65	34.9	155	69.5	68	30.5
Property Dam	21	47.7	23	52.3	37	63.8	21	36.2
Off Ag Just Proc	1	4.8	20	95.2	12	33.3	24	66.7
Weapon/Firearm	2	40.0	3	60.0	1	50.0	1	50.0
Oth Good Order Off	15	22.7	51	77.3	16	48.5	17	51.5
Possess Cannabis	6	54.5	5	45.5	9	64.3	5	35.7
Supply Cannabis	0	0	0	0	1	50.0	1	50.0
Grow Cannabis	0	0	0	0	0	0	2	100.0
Drink Drive	0	0	2	100.0	0	0	7	100.0
Other Driving	0	0	1	100.0	0	0	3	100.0
Telecom	1	50.0	1	50.0	0	0	1	100.0
Total*	204	38.1	331	61.9	326	52.0	301	48.0

Missing cases = 4

Care should be taken when interpreting those percentages in Table 20 which are based on small frequencies.

The following offence categories all experienced an increase in the proportion dealt with by way of caution: Assault increased from 14% to 38.8%, BES & Unlawful Entry increased from 18.3% to 41.6%, Property Damage increased from 47.7% to 63.8%, Other Good Order Offences increased from 22.7% to 48.5%.

The Other Theft category remained stable with 65.1% being cautioned before the FGC program was introduced and 69.5% after. This offence category includes many very minor theft offences which have traditionally been dealt with by way of caution eg: juveniles stealing chocolates from a retail outlet to the value of a few dollars or attempted thefts where nothing was actually taken. The other offence categories contained numbers too small to make meaningful comparisons.

Manner Proceeded With at Second Apprehension

How did police proceed with juveniles at the point of their second apprehension? There was quite a dramatic change in the manner these cases were dealt with before the introduction of the FGC program and after. Before the introduction of the FGC program most juveniles (81%) who were apprehended for a second time were placed before the court. After the FGC program had been initiated only half of second apprehensions were placed before the court (see Table 21). This is quite a dramatic increase in the willingness of police to administer cautions to juveniles who had previously been apprehended by police.

Table 21				
Manner Dealt With at Second Apprehension - Individuals				
Before / After FGC				
	Before FGC		After FGC	
	Frequency	Percentage	Frequency	Percentage
Caution	15	19.0%	52	47.3%
Court	64	81.0%	58	52.7%
Total	79	100.0%	110	100.0%

However, there may be a confounding factor effecting this result. Those juveniles who appear at the beginning of the study period (ie: the 'before FGC' group) may have been apprehended by police numerous times before they were included in this data set. That is, for some of these juveniles it may have been their second apprehension during the study period but their sixth apprehension overall, and therefore, due to their criminal history the police were less likely to caution them. One and a half years into the study period (when the FGC program was introduced) for those juveniles appearing for their second apprehension during the study period it was more likely to be their second apprehension ever. Or, if there were apprehensions previous to the study period they were sufficiently long ago for the police to show more leniency than if the previous apprehensions were very recent. Nevertheless, whilst this factor may account for some of the difference in the manner proceeded with by police at second apprehension it is unlikely to account for more than a small proportion, as only a small proportion of juveniles have numerous apprehensions. Most of the difference would be accounted for by a change in police practice.

Manner Proceeded With For Juveniles With Multiple Apprehensions

Appreh No:	Before FGC		After FGC	
	% Court	N=	% Court	N=
1	50.4%	359	28.1%	334
2	81.0%	79	52.7%	110
3	92.1%	38	62.7%	59
4	92.9%	14	82.9%	41
5	100.0%	10	89.3%	28
6	100.0%	6	90.5%	21
> 6	100.0%	8	100.0%	36

Table 22 shows the proportion of juveniles who were placed before the court according to the number of apprehensions they had experienced during the course of this study. The same warning applies when interpreting this data as that detailed in the section titled 'Manner Proceeded With at Second Apprehension

The N (population size) is shown beside each percentage to indicate the size of the group on which that percentage is based, as the size decreases rather dramatically as the number of apprehensions increase.

Despite the abovementioned limitations of the data, it does appear there was a change in police practice regarding the manner in which juveniles offenders were proceeded with after the introduction of the FGC program; police were much more likely to caution juveniles generally, but in particular those juveniles who were being apprehended for the second, third and fourth time.

Reapprehension

It should be noted that the following data only considers reapprehension within Wagga Wagga for most of the juveniles. Some of the juveniles in the study were reapprehended in places other than Wagga Wagga but this information was collected for only a sample of the data set. Of the 693 individuals in the whole data set (or population) the reapprehension rates for outside Wagga Wagga Patrol were collected only for the 236 individual juveniles in the sample. However, for the remaining 457 individual juveniles this extra information was not collected and therefore cannot be taken into account during the reapprehension calculations. (See section on the sample for more details.)

Table 23		
Percentage Who Were Reapprehended* - Individuals		
Before / After FGC by Manner Proceeded With		
	Before	After
Caution	30.3%	20.4%
Court	38.1%	37.2%

*Expressed as a proportion of all individuals dealt with in that particular manner. For example: In the 'Before FGC' group 30.3% of individual juveniles who were cautioned were reapprehended by police in Wagga Wagga during the study period (January 1990 to October 1993). An individual in this analysis is defined as such the first time he/she appears in this data set.

Table 23 appears to indicate that after the FGC program was introduced, a lower proportion of juveniles cautioned were reapprehended following their first apprehension during this study period. See Appendix Tables 2-5 and 2-6 for a more detailed breakdown of the percentages shown in Table 23.

One of the possible shortcomings of this view could be that the 'after FGC' group have not had as much time to be reapprehended as the 'before FGC' group, therefore, making their reapprehension rate look more favourable. Further analysis was done to control for time taken to be reapprehended to see if this made any difference and the results are shown in Table 24.

Reapprehension Within Nine Months

To ascertain whether the differences apparent in Table 23 would remain if the time taken to be reapprehended was controlled, those cases which were reapprehended more than nine months after their first apprehension were excluded. (The nine month reapprehension period was chosen as analysis shows that of the juveniles apprehended for a second time during the study period three quarters (74.6%) were reapprehended within nine months of their first apprehension).

It appears that controlling for the time taken to be reapprehended negates the differences in reapprehension rates between traditional cautions and FGC. Table 24 shows that for juveniles cautioned the proportion reapprehended was approximately 19% both before and after the introduction of FGC. Of those placed before the court, the proportion reapprehended was higher than that for cautions as might be expected if the more serious offenders are placed before the courts.

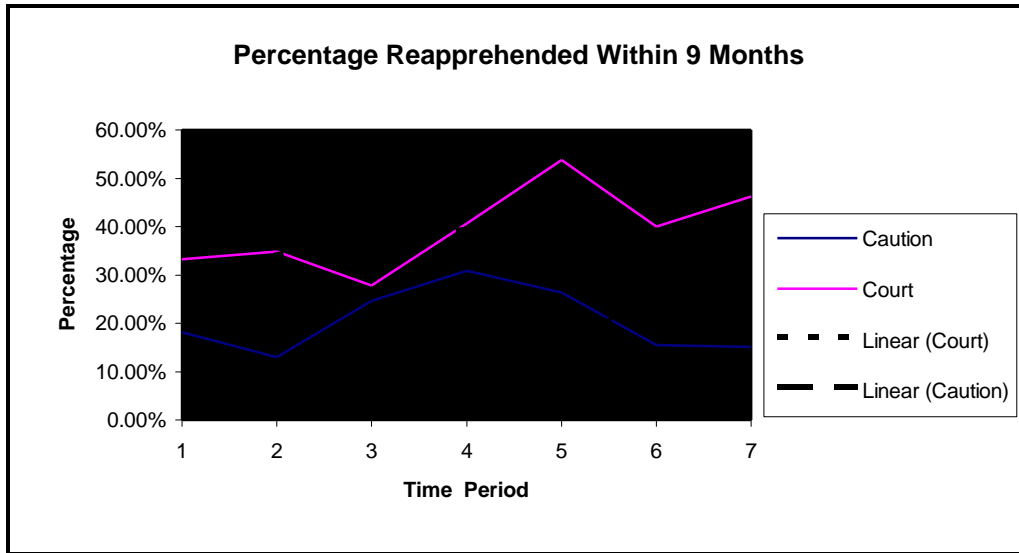
Table 24		
Percentage Who Were Reapprehended* within 9 months - Individuals		
Before / After FGC by Manner Proceeded With		
	Before	After
Caution	19.0%	18.7%
Court	32.5%	35.2%

*Expressed as a proportion of all individuals dealt with in that particular manner. For example: In the 'Before FGC' group 19.0% of individual juveniles who were cautioned were reapprehended by police in Wagga Wagga within 9 months. An individual in this analysis is defined as such the first time he/she appears in this data set.

Figure 8 shows the percentage reapprehended within nine months for specific time periods (note that the eighth time period had been excluded as the juveniles apprehended during this time period had not had time to reoffend before the study period finished).

The proportion reapprehended is consistently higher for juveniles placed before the courts and appears to be increasing. This is in contrast to juveniles cautioned for whom the proportion reapprehended is not only generally lower but also shows a stable trend. The percentages illustrated in Figure 8 are those in Table 24, and the frequencies in Appendix Table 2-7.

Figure 8



Why is the proportion reapprehended increasing for those juveniles placed before the courts? From the earlier data analysis and the Table 2-7 in Appendix 2, it is apparent that the number of juveniles placed before the courts decreased quite dramatically after the

introduction of the FGC program, indeed the actual numbers became quite small. More juveniles were deemed suitable for a caution and fewer were placed before the court. Anecdotal evidence suggests that only the most serious offenders and those with a substantial criminal history were placed before the courts. Therefore, it is not surprising that these juveniles have higher reapprehension rates than the bulk of juvenile offenders.

Time Period	Caution	Court	Total
1	18.2%	33.3%	29.2%
2	13.0%	34.9%	22.7%
3	24.6%	27.8%	25.7%
4	30.8%	40.7%	34.8%
5	26.4%	53.8%	31.8%
6	15.5%	40.0%	19.1%
7	15.1%	46.2%	21.2%
8	3.1%	14.8%	8.5%

*Expressed as a proportion of all individuals dealt with in that particular manner. For example: During the first time period 18.2% of individual juveniles who were cautioned were reapprehended by police within 9 months in Wagga Wagga during the study period (January 1990 to October 1993). An individual in this analysis is defined as such the first time he/she appears in this data set.

It is interesting that police in Wagga Wagga patrol appear to have substantially increased the proportion of juveniles cautioned without this having any apparent detrimental effect on the reapprehension rates. This research has indicated no net-widening with the introduction of FGC so the increase in the proportion cautioned can be assumed to have come from that pool of juvenile offenders who would have previously been placed before the courts.

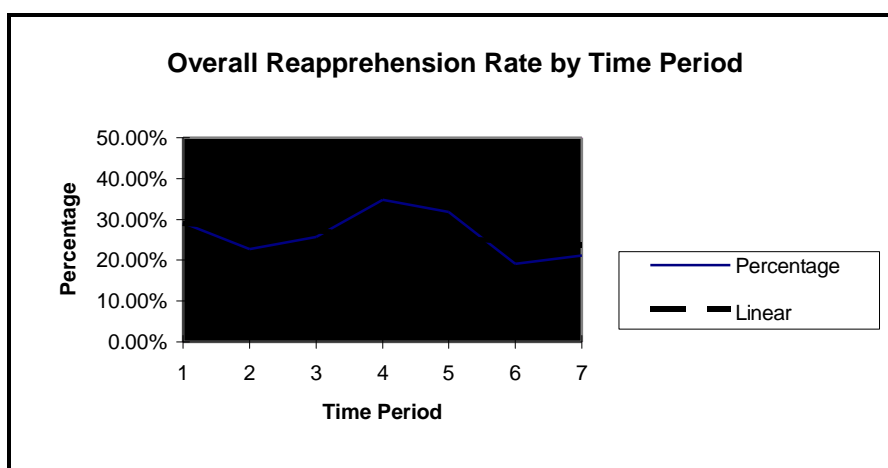
When time taken to be reapprehended was controlled by excluding all juveniles who took longer than nine months to be reapprehended, it is clear that the proportions of juveniles who were reapprehended did not vary according to time period (that is, 'before FGC' vs 'after FGC'). However, the proportions reapprehended after being placed before the court were considerably higher than the proportions reapprehended after being administered a caution. Does this mean that the likelihood of reapprehension is dependent on how a juvenile is proceeded with?

If the Wagga Wagga data is taken to be a sample of juvenile apprehension patterns in large rural towns in N.S.W., a chi-square analysis of independence indicates that reapprehension rates were dependent on how a juvenile was processed (Chi-square=18.0171 {DF=1,n=643} p<.01). Does this mean that if all juveniles were cautioned the overall reapprehension rates would drop to the level of those for the juveniles cautioned in this

study? Obviously, this is too simplistic as there are additional factors influencing recidivism. However, this study does suggest that a certain proportion of juveniles who have been traditionally placed before the courts can be cautioned without any increase in the reapprehension rate for those cautioned.

After the introduction of the FGC program the number of juveniles who were placed before the courts decreased to relatively small numbers. It was suggested that the reason for this was the revised criteria for selection of offenders suitable for cautioning which accompanied the introduction of FGC. With FGC cautioning deemed suitable for a wider variety of offenders than had been the case previously, Wagga Wagga police were very good at discriminating between juveniles who were suitable for a caution and those who were not. This suggests that a larger proportion of juvenile offenders could be administered a caution rather than being placed before the courts without having any detrimental effect on the reapprehension rates. In fact, the effect was that the overall reapprehension rate started to show a slightly decreasing trend (see Figure 9).⁵ As in previous analysis of this type the eighth time period was not included in the graph as those juveniles did not have adequate time to be reapprehended before the end of the study period.

Figure 9



The FGC program resulted in an increased proportion of juveniles apprehended being cautioned. The reapprehension rate for those cautioned remained lower than for those placed before the court, resulting in an apparent decreasing trend in the overall reapprehension rate.

⁵ The percentages on which Figure 9 was based are shown in Table 25 in the 'Total' column.

The Sample - Additional Data

Additional information on offending outside of the Wagga Wagga patrol was collected for a sample of the data set. The main reason for collecting this sample data was to be able to estimate the proportion of juveniles who had been reapprehended outside of the Wagga Wagga patrol, thus enabling a more accurate picture of reapprehension rates.

This information was only collected for a sample of the data set as the collection was very time consuming. The CIR forms from which the main data set was collected described only juvenile apprehensions (and thus reapprehensions) by Wagga Wagga police. The only way to ascertain whether some juveniles were being reapprehended elsewhere in the state was to peruse individual criminal histories on the Police Service CNI Computer System.

Firstly, every fourth case in the data set was identified for inclusion in the sample. Then, each such case was identified on the CNI system. The criminal history of that offender was examined to identify whether he/she had been reapprehended by police other than in Wagga Wagga, subsequent to the apprehension constituting that particular case. This data was recorded, including the total number of apprehensions outside of Wagga Wagga (subsequent to the apprehension constituting that case) and the number of apprehensions as an adult for offenders who had turned 18.

Characteristics of the Sample

There were 236 individual juveniles in the sample and 306 cases. The demographic characteristics of the sample were examined to ascertain their degree of similarity to the main data set. The age, sex, racial appearance, occupation, offence and apprehension number distributions were very similar to the main data set (see Appendix 3 for tables detailing this data).

The reapprehension rates for the sample were a little higher than those for the whole data set (that is, the population) as the sample takes into consideration not only reapprehension within Wagga Wagga patrol, but also reapprehension by police elsewhere in the state (see tables in Appendix 3).

Overall, thirty (12.7%) of the 236 individuals comprising the sample had been reapprehended outside of Wagga Wagga patrol. The table below shows the proportion of the sample who were reapprehended within Wagga Wagga, outside of Wagga Wagga and those reapprehended in both places.

Table 26								
Area Reapprehended* by Manner Proceeded With by Time Period								
Sample - Individuals								
Area Reapprehended	Before FGC				After FGC			
	Caution		Court		Caution		Court	
	Freq	Perc	Freq	Perc	Freq	Perc	Freq	Perc
Reapp in Wagga	14	23.3%	16	25.0%	13	17.1%	5	13.9%
Reapp outside Wagga	2	3.3%	6	9.4%	2	2.6%	6	16.7%
Reapp in & out Wagga	4	6.7%	3	4.7%	3	3.9%	4	11.1%
Total	20	33.3%	25	39.1%	18	23.6%	15	41.7%

*There were no cases in the sample where juveniles had taken longer than 9 months to be reapprehended for the reapprehensions within Wagga Wagga. However, for those cases reapprehended outside of Wagga Wagga only it is not known how long it took to be reapprehended.

To allow a comparison the reapprehension rates for the whole population are as follows:

For those cautioned before FGC 19%

For those placed before the court before FGC 32.5%

For those cautioned after FGC 18.7%

For those placed before the court after FGC 35.2%

The population reapprehension rates are lower than those of the sample understandably as the sample includes reapprehension outside of Wagga Wagga which is not included for most of the population data. However, the above table indicates that in fact the proportion of juveniles being reapprehended solely outside of Wagga Wagga was quite small, particularly for those juveniles cautioned.

Using the sample as an estimate, the table below indicates what the real reapprehension rates for the population may have been. As mentioned previously, for the 236 individuals in the sample the reapprehension rate outside of Wagga Wagga is known. This group represents 34% of the 693 individual juveniles in the entire data set. (The number reapprehended outside of Wagga Wagga as known from the sample was multiplied by 2.9 to estimate the number in the population who would have reoffended outside of Wagga Wagga. $100\% / 34\% = 2.9$.)

The estimated reapprehension rates are shown in Table 27 along with the reapprehension rates without the estimates (from Table 24). For juveniles cautioned it appears that including estimates of their outside Wagga Wagga reapprehension rates makes little difference. Only a very small proportion were reapprehended outside of Wagga and there was little difference between the 'before FGC' group and the 'after FGC' group. For juveniles placed before the courts the estimates were larger and for those placed before the courts in the 'after FGC' group including the estimate increased the total reapprehension rate the most.

In conclusion, if the sample is used to estimate total reapprehension rates for the entire data set, the reapprehension rates for juveniles cautioned remain at around 20% both for those who received a traditional caution and those who received a FGC. The

reapprehension rates for juveniles placed before the courts before FGC was introduced would increase slightly, and for those placed before the courts after FGC was introduced, more so.

Table 27		
Estimate of Total Reapprehension Rates* - Individuals - Reappreh Within 9 Mths Before / After FGC by Manner Proceeded With		
	Before	After
Caution	21.7% (19%)	20.4% (18.7%)
Court	39.2% (32.5%)	47.8% (35.2%)

* Total reapprehension rate refers to reapprehension rates which include an estimate for reapprehension outside of Wagga Wagga patrol. The figures in brackets are the comparable reapprehension rates without the estimates for reapprehension outside of Wagga Wagga.

Reapprehension as Adults

Of the 236 individuals comprising the sample 129 (54.7%) had turned eighteen (adult) by the time the sample data was collected (February 1994). Of those 129 offenders, 93 (72.1%) had not been arrested by police as adults. Of the thirty-six (27.9%) who had been arrested as adults, twenty had been arrested only once, six had been arrested twice, four had been arrested three times and the remaining six had been arrested four or more times. The amount of time the juveniles in the data set had had as adults varied greatly of course depending on where they were in the study period chronologically and how old they were at this point in time.

CONCLUSION

The introduction of the FGC program in Wagga Wagga was not associated with any net-widening effect, on the contrary, after its introduction there was a small decrease in the average number of juvenile cases dealt with monthly by Wagga Wagga police.

The majority of juveniles apprehended by Wagga Wagga police during this study were apprehended in respect of one offence, most likely a theft offence and were apprehended only once. Most who were reapprehended were reapprehended within nine months of the initial incident.

The introduction of the FGC program involved not only a new cautioning process but changes in the criteria used to assess which juveniles were eligible for a caution. The result was that a higher proportion of juveniles dealt with by Wagga Wagga police were

cautioned. The biggest changes in practice involved those juveniles who were apprehended for the second or subsequent time; the introduction of FGC saw a much higher proportion of these juveniles being cautioned.

Even though juveniles who would have previously been placed before the courts were cautioned under the FGC program, the reapprehension rates for juveniles cautioned remained stable. The reapprehension rates for those cautioned during the FGC program remained the same as they had been previously when a smaller proportion of the juveniles apprehended were cautioned. Additionally, the reapprehension rates for juveniles placed before the court were higher than for those cautioned, both before the introduction of the FGC program and after.

Most criminologists would suspect that the higher reapprehension rates for those placed before the courts (both before the FGC program and after) was a social selection effect. That is, police select the tougher cases for placing before the court and that is why they have higher reapprehension rates than those selected for cautioning. Yet if that is true, the reapprehension rate for cautions should increase after the introduction of the FGC program. It should increase because after FGC was introduced, many tougher types of cases which formerly would have been placed before the court, were now being dealt with by way of FGC caution.

So at least one of the following propositions is true:

1. Reapprehension for like cases is lower for cautions than for court appearances.
2. Reapprehension for like cases is lower for FGC cautions than 'traditional' style cautions.

Unfortunately, it is not possible to discern from the data which of these propositions is true, although it is unlikely that both are false. This research design was limited in its capability to measure any difference in reapprehension rates between traditional cautions and FGC as the two groups cautioned were drawn from different time periods and more importantly under different police practices. The ideal evaluation would, however, eliminate these extraneous variables by incorporating a random allocation design where juveniles deemed suitable for a FGC would be randomly allocated to participate in a FGC or receive a 'traditional' caution.

However, it may not be of utmost importance to dwell on the issue of whether FGC result in a lowering of reapprehension rates in comparison to 'traditional' cautions and court appearances (assuming, of course, that they do not increase reapprehension rates). Perhaps the main focus should be on whether FGC provide a way of dealing with juvenile offending behaviour which is more acceptable to the community than the present methods used by police, that is, placing juveniles before the court or administering a 'traditional' caution.

Similarly, it should be kept in mind that even though this report has focused on reapprehension rates, this should not be the only criteria by which FGC are evaluated. There are other aspects of the process which should be evaluated, such as, the opportunity for increased victim participation, expanded provisions for restitution, the possibility of cost benefits, opportunity for the offender's family and community to be involved and the potential to divert juveniles from the formal criminal justice system. Some of these aspects are being addressed in the other parts of this evaluation project. However, further analysis of reapprehension rates using different research methodology than was possible here would certainly be warranted, as it may be able to separate some of the extraneous factors which this evaluation can only hypothesise about.

CHAPTER 6: THE MODEL IN PRACTICE AND THEORY

Evidence gathered for this evaluation of the Wagga Wagga model of "effective cautioning using family conferences" is instructive in several areas. It offers specific and general insights in politics, sociology and psychology. Furthermore, statistical evidence from Wagga provides an objective measure of several positive outcomes delivered by the model.

To begin with, the development and implementation of the model offers an important *political* case study. It is a study in the politics of policing and, more generally, a study of the clash between two political world views. In that clash, the view that society can be largely self-guiding appears to have prevailed against the frequently unquestioned alternative view that society should be guided by a professional elite. Thus, at the level of local politics, the view that society can be largely self-guiding informed the design of the model of effective cautioning using family conferences. And at the levels of state and national politics, growing acceptance of the Wagga model of juvenile justice necessarily acknowledges an alternative to the view that society should be guided by a professional elite. Thus, the key political question to which this report offers one tentative answer is not what structures in justice best enable public officials to make decisions on behalf of others. Rather, the key political question is what structures best enable the members of local communities to make just decisions on their own behalf.

The second area in which evidence gathered for the evaluation offers specific and general insights is in the area of *sociology*. Evidence gathered from conferences themselves reveals a great deal about interaction in groups, and about the power of social networks. It appears to be a measure of the intrinsic integrity of the conference process that it regularly delivers outcomes satisfactory to all conference participants. This apparent integrity of the process itself would seem to derive both from the nature of the interaction between conference participants and from the ability of the conference process to mobilise and even rebuild social capital. Thus, the key sociological question is what processes best foster the sort of interaction that mobilises and builds social capital.

Third, interviews with conference participants some months after their conference reveal much about their perceptions of the process and its aftermath. The reported perceptions of victims, offenders, their supporters, and police suggest that the conference process and the subsequent honouring of conference agreements do not fit the paradigm of retributive justice. The responses of participants suggest that conferences and conference agreements exemplify an alternative paradigm of restorative justice - or, better still, "transformative justice". The latter phrase is preferable, since it emphasises not *restoration* of the status quo ante, but *transformation* of individuals and social networks. This transformation occurs as a result of people's involvement in a conference and fulfilment of a subsequent conference agreement. (A fuller discussion of these terms and their relative value is provided below.) The key *psychological* question raised and tentatively answered by the report is thus what model of habits, motivation and rationalisation best explains this individual and collective transformation.

Fourth, statistical data from the Wagga Wagga pilot program of family conferencing strongly support claims that the model is able to achieve its several stated goals. Preliminary studies had already suggested (1) that the overwhelming majority of participants were satisfied with the conference process and its aftermath. Police statistics had likewise suggested (2) that there were very high rates of voluntary compliance with conference agreements. Lubica Forsythe's detailed data analysis has now provided evidence suggesting (3) that rates of reoffending are reduced significantly by the conference and its aftermath. The rate of reapprehension for that cohort of offenders whose cases were dealt with by conference rather than court was approximately half that of a group of offenders whose comparable cases had gone to court. (See Tables 23-25; Figures 8 & 9) Once the constructive suggestions of participants have been incorporated into an improved model, it is highly likely that this rate of reapprehension can be further reduced. Evaluation of the conferencing program in Canberra will provide a more rigorous and accurate measure of the ability of conferencing to deliver lower rates of reoffending.

For the time being, we have a great deal of evidence that the Wagga model produces both better subjective and better objective outcomes. The model produces better *subjective* outcomes insofar as people feel better about the central process than they do about the alternatives. Participants generally seem to feel that they have achieved *procedural, material* and *psychological* justice because they have been allowed to argue their case, to be party to a fair agreement for material restitution, and to express their feelings openly.¹

The model produces better *objective* outcomes in the form of reduced rates of reoffending and higher rates of material reparation. And there seems to be yet another positive outcome delivered by the model, an outcome that involves both subjective and objective improvements. The model appears to improve police practices on the streets. Police and young people who were interviewed as part of the program evaluation suggested that relationships between the two groups had improved in recent times. Both groups suggested that this improvement in their relations on the streets correlated with the involvement of both parties in conferences. The data on first offences, presented in the previous chapter (Tables 8 and 9), would seem consistent with such claims. Good order offences as a proportion of first offences declined from over 12% of the total before the implementation of the conferencing program to under 6% during the two years after the program began. It is not clear whether this statistic reflects more tolerance on the part of police, more civil behaviour on the part of some young people, or a combination of both of those factors. Whatever the explanation, the figures lend support to suggestions by police and young people that the offence of "contempt of cop" became less significant as the new model of effective cautioning using family conferences was introduced. Again, the program evaluation in Canberra may provide a more precise measure of this phenomenon.

In sum, the evidence collected during this program evaluation suggests that the Wagga model provides a better deal for victims, for offenders, for their supporters, and for

¹ This argument is presented in more detail in a paper on conferencing in schools. See M. Hyndman, D. Moore & M. Thorsborne, "Family and Community Conferencing in Schools" in R. Homel (ed), *Problem Solving for Crime Prevention*, Brisbane: Griffith University, 1995

police. The evidence also contributes to a greater understanding of the family conferencing process, a greater understanding of this particular model, in which police convene conferences in order to deal with the majority of juvenile justice cases, and a greater understanding of the political environment of policing.

This final chapter will now consider these three areas in reverse order. It will consider, first, the broader politics of policing and juvenile justice. It will then consider this particular model of juvenile justice. Finally, it will consider in some detail the family conferencing process around which the model is based.

The *politics* of program implementation and the mechanics of the *model* have already been described in some detail in the first chapter of this report. Further discussion here will be brief. Anyway, the most far-reaching implications of the evaluation derive from studying neither the politics of implementation nor the mechanics of the model. The most far-reaching implications derive, rather, from detailed studies of the conference *process* itself. As more evidence about the process has emerged, so the initial theoretical account of the process has been elaborated. Ongoing discussions about the conferencing process among a small group of colleagues - in Australasia and elsewhere - have led to the development of a grounded psychosocial theory which has built on Braithwaite's theory of reintegrative shaming. Some of those who have followed the development of the Wagga model from the outset have now come to see family or community conferencing as one version of a generic *transformative justice process*.

A clearer understanding of the nature of this generic process should enable further improvement of the one particular version with which this report has been concerned. A clearer understanding of the process should, in turn, enable further improvement of the model of "effective cautioning using family conferencing". Finally, understanding the process and improving the model might lead to the identification of other arenas where transformative justice processes are preferable to the retributive alternatives. Accordingly, the bulk of this chapter will be devoted to an analysis of the conferencing process itself, and to a summary of the psychosocial theory that best accounts for the power of the process. Nevertheless, the political and procedural framework within which the process has operated in this program must first be well understood.

Politics and Policing

An account of the politics of implementing and evaluating the model of effective cautioning has been supplied in the first chapter of this report. More detailed accounts are available elsewhere.² Beyond the details, the essential pattern is this: Two rival interpretations of "community policing" clashed in Wagga Wagga during the implementation of the model of effective cautioning. One of these interpretations sees "community policing" largely as a tool of management, a rhetorical means of diffusing conflicting demands from within and without the Police Service. The other interpretation takes seriously the language of decentralisation, consultation, and

² D.B. Moore & T.A. O'Connell, "Family Conferencing in Wagga Wagga: A Communitarian Model of Justice" in C. Alder & J. Wundersitz (eds), *Family Conferencing and Juvenile Justice: The Way Forward or Misplaced Optimism?* Canberra: AIC, 1994; D. B Moore & J.M. McDonald, "Juvenile Justice and Community Cohesion: A Local Initiative and its Wider Ramifications" in K. Hazlehurst (ed), *Justice and Reform Vol. 2* Aldershot: Avebury, 1995

democratic participation.³ This latter view of community policing has been consistently espoused by the local Community Consultative Committee, the Police and Citizens Youth Club, and the Beat Police. The Wagga Wagga Patrol Commander displayed considerable courage in supporting these groups.

The two competing interpretations of "community policing" can be understood as examples of two competing world views. The former interpretation of community policing assumes the model of a scientifically-guided society. That model leaves the detection and solution of social problems to experts (who often draw direct analogies between the rigour of their social science and that of the natural sciences). The latter interpretation of community policing assumes, in contrast, the model of a self-guiding society. That model has only a limited faith in the political pronouncements of experts. It has a greater faith in the ability of people to contribute to political debate and to make mutual adjustments on the basis of popular participation.

The model of a scientifically-guided society tends to favour centralist control. The model of a self-guiding society seeks to devolve power to the lowest possible levels, according to the principle of subsidiarity. Political scientist Charles Lindblom has suggested the following reasons for the divide between these two philosophies:

There exists in the literature of social science no justification of centrality over mutual adjustment, the favoritism shown to it more habitual than reasoned. Rational decision making, as both many lay people and professionals see it, is simply what a rational mind does with a problem, and a centralist has a rational mind. That a centralist's mind alone achieves rationality denied to interacting people they simply assume. Their mistake derives in part from their view of problem solving as wholly cognitive, not also social; thus they habitually speak of the "decision maker" rather than of interacting participants. They remain blind to the fact that centralists do not necessarily think their way through to a solution but instead impose one by exercise of authority.⁴

Perhaps the most interesting aspect of the politics of implementing the Wagga model of effective cautioning concerns the relationship between these two philosophies of centralism and mutual adjustment. Once a basic preference had been shown for mutual adjustment over the imposition of central authority, that philosophy of mutual adjustment seems to have informed the subsequent development of all procedures within the model. Thus, the review committee that exercises collective discretion to refer a case to court or conference operates according to the philosophy of mutual

³ As a general rule, and for understandable reasons, the first view tends to prevail among commissioned officers, the second among the more committed, less cynical constables and sergeants. A study of the views of senior commissioned officers concerning community policing is available in D.B. Moore, "Views at the Top - Downunder: Senior Australian Police on Australian Policing" in *Policing and Society*, 4, 1994. A study of rank-and-file views is available in D.B. Moore "Police Responses to Community Policing" in S. McKillop and J. Vernon (eds), *The Police and the Community*, Canberra: AIC, 1991. Similar findings of a cultural clash between rank-and-file and commissioned officers are presented in a more recent report that reached conclusions opposite to those anticipated and desired by the senior officers who commissioned the report. See ***

⁴ Charles Lindblom, *Inquiry and Change: The Troubled Attempt to Understand and Shape Society*, New Haven: Yale University Press, 1990. pp. 247-248

adjustment where previously there had been an individual, unilateral decision to send a case to court or to a traditional caution.

Similarly, the attendance of investigating officers at conferences is optional, and this arrangement was designed to give individual officers an opportunity to decide for themselves the merits of the process. Rather than being told that they had to support the process, they could trade "war stories" about it with their colleagues if they chose to do so. Both initiatives - the review committee and the attendance of investigating officers at conferences - appear to have fostered a culture of talking and critical thinking. Officers have thereby been encouraged to reconsider - individually and collectively - the fundamental aims of their profession. And most importantly, of course, the conference process itself involves a shift away from the philosophy of imposed central authority and a shift towards the philosophy of mutual adjustment.

A model that employs conferencing in this way ultimately requires a redefinition of two key political terms. The politics of implementing the Wagga model has involved redefining the terms "community" and "policing". The term "community" is no longer defined *centrally* as the community of voters or the community of viewers and listeners. These definitions, understandably, are favoured by politicians and media. The Wagga model, in contrast, gives "community" a *local* definition. The "community" that attends a conference is the community of people affected by a given incident. And that community is constituted, in turn, by several smaller communities: the "communities of care" surrounding victim(s) and offender(s). In other words, the community spoken of in politics and infotainment consists of innumerable smaller communities. The Wagga model deals with some of these smaller communities - as the need arises.

The term "policing" has also been redefined. The Wagga model enables police to deal with the majority of juvenile justice cases at the front end of the justice system, and to do so using the resources of a local community rather than the resources of the state. And the guiding philosophies of the conference that harnesses these resources include reparation and harm minimisation. The model thus defines the primary role of policing as "peace keeping" rather than "law enforcement". Yet again, mutual adjustment prevails over the imposition of central authority.

The Wagga Model

A key feature of the *politics* of implementation of the Wagga model, then, has been a preference for mutual adjustment over the imposition of central authority. A key design feature of the *model* itself is that police are responsible for carriage of the model's key procedures. Some of the arguments for this arrangement have already been rehearsed in the first and fourth chapters. They include minimisation of bureaucratic complexity, which, in turn, both (1) minimises the *delay* between apprehension and official response, and (2) minimises total systemic financial *costs*.

Other arguments for the role of police in the Wagga model include (3) the increased willingness of parties - particularly victims - to attend conferences if police are in attendance, and the transformative effect of the model and process not only on participants but also on (4) police and (5) policing. As was suggested in the fourth chapter, this transformative effect appears to be experienced at four points in the

model. It is experienced by police (a) who attend review committee meetings, (b) who attend a conference as an investigating officer, (c) who arrange and convene conferences, and (d) who are involved in any follow-up after conferences.

A further advantage of the role of police in this model of juvenile justice arises from (6) the fact that policing is not inextricably linked to the paradigms of legal formalism or welfarism. Legal formalism, as the guiding philosophy of attorney generals' departments, and welfarism, as the guiding philosophy of community service departments, are the two principal philosophies informing practices in contemporary juvenile justice systems. Children's courts and related diversionary programs generally offer some mix of these two philosophies, adjusting the ratio of legal formalism to welfarism over time in response to fluctuations in the social and political mood. In contrast, the conferencing process is guided by a quite different philosophical mix of *reparation, harm minimisation, education and transformation*. This philosophical mix is less likely to succumb either to a legal formalist philosophy or a welfarist philosophy so long as the model and its central process are coordinated by an agency that is guided (exclusively) *neither* by legal formalism *nor* by welfarism. Policing, with its three-fold historical mandate of law enforcement, peacekeeping, and miscellaneous/emergency service, is guided by a mix of philosophies. Its mandate to keep the peace and provide miscellaneous/emergency services is quite consistent with the goals of reparation, harm minimisation, education and transformation.

Despite the weight of such arguments, however, there has been considerable opposition to the Wagga model. That opposition has frequently been backed by arguments that are less than clear. Opposition has apparently wavered between, on the one hand, criticism of the model and process, and, on the other hand, support for the process, but criticism of the model because of the role of police in it.

Perhaps not surprisingly, the most vociferous criticism has come from departments guided by legal formalist or welfarist philosophies, or from academics similarly committed to those philosophies and related practices. Where their criticism has focused on police involvement, critics have claimed that only certain individuals or agencies are capable of convening conferences. Police, they say, are not up to the task. Consistently, such critics have then proceeded to outline the skills needed by mediators.

This assumption that mediation and conferencing are synonymous is false. It arises from a failure to distinguish between (1) an alternative mechanism for dispute resolution in *civil law* from (2) an alternative means of responding to an act of *criminal* victimisation. When advanced by attorney generals' departments, in particular, such arguments are disturbing. Policy analysts in a central legal agency really should be capable of distinguishing between civil and criminal law.⁵

The confusion of the critics might perhaps be excused on the grounds that the conference process is convened at the juncture of civil and criminal law. The criminal

⁵ For a generally perceptive criticism of "victim-offender mediation" programs that have failed to distinguish between criminal and civil law, see Brett Mason, "Reparation and Mediation Programmes: The Perspective of the Victim of Crime", *Criminal Law Journal* 16, 1992 402-414

law is invoked as a prelude to convening a conference. But an agreement reached in the conference would have standing only in civil law were a participant to claim legal remedy for a failure to honour the agreement. Perhaps most confusing of all - certainly for legal formalists - is the observation that conference participants do not seem primarily concerned about breaches of *legal rules* - civil or criminal. Rather, participants seem concerned about breaches of *community standards*. The concerns of participants are, first and foremost, moral and ethical, rather than legal. To understand this distinction more clearly, one must analyse the conference process.

Dynamics of the Process

To reiterate: The *politics* of implementing the Wagga model have involved taking seriously the rhetoric of community policing. The terms "community" and "policing" have thus been subject to redefinition. "Community" has been redefined as the group of people immediately affected by an incident. "Policing" has been redefined primarily as peacekeeping. In both instances, the philosophy of mutual adjustment in politics has prevailed over the centralist philosophy that society should be guided or directed by a professional elite.

Yes, police play a key role in the *model*, but their role does not undermine this philosophy of mutual adjustment. As members of the weekly review committee, police collectively exercise their discretion to decide that a group of people directly affected by an incident might be brought together. Once that decision has been taken, members of the group affected by the incident are offered participation in a conference. The opportunity to repair the damage caused by the incident, and to minimise further harm, is given to conference participants. Details of conference agreements are left to them, and the obligation to honour the conference agreement they made likewise rests with them.

Now to the *process*: The conference itself appears to be one example of a generic process of transformative justice. Thus, the conference is informed by key principles of the more familiar paradigm of "restorative justice", but extends those principles. It seeks restoration and transformation, rather than retribution.

Canadian academic and social activist Ruth Morris has recently delineated these three approaches with impressively clear definitions. She begins with *retributive justice*, which sees crime as a *violation of the state*. Retributive justice sees problems as beginning with the *crime*. And the goal of retributive processes is some combination of punishment, deterrence, protection, and rehabilitation.

In recent years, a second paradigm has begun to influence debates and practices in criminal justice. Perhaps its most eloquent advocates have been members of the North American Mennonite and Quaker communities.⁶ The *restorative justice* paradigm they have promoted sees crime as a *violation of people and relationships*, rather than a violation of the state. Like retributive justice, restorative justice sees problems as

⁶ See especially Howard Zehr, *Changing Lenses: A New Focus for Criminal Justice*, London: Metanoia, 1990

beginning with the crime, but the goal of restorative processes is to restore "wholeness to the victim and responsibility to the offender".⁷

Morris and her colleagues do not disagree with this paradigm of restorative justice, but they would like to see it extended. The resultant third paradigm has more significant implications for the criminal justice system than does the paradigm of restorative justice. Morris calls this third paradigm "transformative justice". It sees crime as a violation of people and relationships *which offers an opportunity for transformative healing for all*. It sees problems beginning with the *causes of crime*. And transformative justice processes treat crime as *an opportunity to find healing for both victim and offender*.⁸

The Wagga model of effective cautioning using family conferencing clearly fits this third paradigm, the paradigm of transformative justice. The Wagga model offers an opportunity for healing to all affected by a criminal incident. A conference deals with the incident itself, but in providing a constructive response, conference participants may also begin to address some of the causes of crime. In this model, then, crimes are treated, where possible, as opportunities for problem solving. They are treated as opportunities for individual and collective transformation. Conference transcripts and interviews with participants - reproduced in the second, third, and fourth chapters of this report - provide a weight of empirical evidence that participants understand conferences in these terms, and that a transformation does indeed occur during and after conferences.

Now those who have followed the debate about family conferencing in Australia since early 1992 will be aware that much of the theoretical work around the model and process has not, until recently, employed this paradigm of transformative justice. The starting point for theoretical work has been an apparently slightly different paradigm. Conferencing has been described as one example of a generic "ceremony of reintegrative shaming".⁹ But there is no theoretical conflict here. Reintegrative shaming achieves the social reintegration of victim(s) and offender(s) through a sequence of remorse, expiation and forgiveness. The immediate goal of conferences and conference agreements is *restoration* - material and psychological. For this reason, conferences have been understood as examples of restorative justice - and indeed they are.¹⁰ They repair the damage - as far as is possible - and they minimise further harm arising from the offending incident. But beyond restoration, a conference and its aftermath appear to have a broader *transformative* effect. Our current understanding, then, is that *ceremonies of reintegrative shaming constitute a subset of the larger category of transformative justice processes*. The family conference is thus understood as a ceremony of reintegrative shaming *and* as the central process in a working model of transformative justice.

⁷ Ruth Morris, "A Practical Path to Transformative Justice", unpublished paper, Toronto, December 1992, p.3. For a clear discussion of the link between philosophy and practice in New Zealand, see F. McIlrea, "Restorative Justice. The New Zealand Youth Court: A Model for Development in Other Courts?", *Public Sector*, 17 (3) 1994, pp. 15-17

⁸ *ibid.*

⁹ John Braithwaite and Stephen Mugford, "Conditions of Successful Reintegration Ceremonies: Dealing with Young Offenders", *British Journal of Criminology*, 32 (2) 1994, esp p. 143

¹⁰ See McIlrea *op cit.*

Understanding more about the nature of the conference process has required a dialogue between the theory of reintegrative shaming, other social theory, and qualitative data. From the first meeting held in Wagga in 1991 to consider the introduction of the conferencing process, a working hypothesis has been that such data as was collected in any evaluation of the process and model would prove consistent with the theory of reintegrative shaming. Both the qualitative and quantitative empirical evidence from the Wagga model do indeed seem consistent with the theory of reintegrative shaming.

A more rigorous evaluation of the fit between theory and practice began in the Australian Capital Territory in 1994 and this "phase three" trial should provide detailed results. As suggested in the introduction, the evaluation from Wagga can be compared to the second phase of a medical trial. Thus, following the (phase one) test for "toxicity" in New Zealand, the key aim of the (phase two) Wagga evaluation has been to ensure that the model and process work as well as possible, prior to a full-scale (phase three) randomised trial in Canberra.

An improved and smoothly functioning model alone would be a significant outcome from the Wagga evaluation. But this evaluation has also led to some fascinating theoretical advances. In particular, the evaluation has involved international collaboration to strengthen the physiological and psychological aspects of the theory of reintegrative shaming. The resultant "biosocial" theory offers a persuasive explanation for the efficacy of the process and model. This theory goes a long way towards explaining why the Wagga model has been able to deliver a better outcome for victims, offenders, their supporters, and police. Accordingly, the rest of this chapter will outline the (sociological) theory of reintegrative shaming and psychological counterparts known as affect theory and script theory. The theoretical result is a "social psychology of transformative justice", which is well illustrated by the excerpts from conferences and interviews held in Wagga Wagga.

The social psychology of transformative justice (1): criminology¹¹

The theory of reintegrative shaming is presented most clearly in *Crime, Shame, and Reintegration*, published in 1989. In that book, John Braithwaite turns the traditional concerns of criminology upside down by asking why most people obey the law most of the time.¹²

The "classical school" of criminology had sought to answer a very different question. They asked why some people break the law some of the time, and offered the general answer that criminal offenders made a "rational hedonic calculation". Criminals weighed the advantages and disadvantages of committing an offence, and if the advantages of offending - such as pleasure or wealth - outweighed the disadvantages -

¹¹ Parts of this section were previously presented in a paper presented to the second annual Silvan S. Tomkins Colloquium, "The Experience and Expression of Anger", Philadelphia, October 1994. The paper is: D.B. Moore, "Public Anger and Personal Justice: From Retribution to Restoration and Beyond".

¹² On the question of compliance with the law, see also Tom Tyler, *Why People Obey The Law*, New Haven: Yale University Press, 1990.

such as pain or loss of liberty, then the decision was taken to offend. Thus, according to this school of thought, the solution to the problem of crime was for the state to devise tougher sanctions. If the pain or loss of liberty were sufficiently great, these disadvantages would outweigh the advantages of ill-gotten pleasure and wealth. A sufficient quantity of institutionalised anger would instil a fear that outweighed the seductions of crime.¹³

Positivist critics of the classical school also asked why some people break the law, but they arrived at different answers to those reached by the classical criminologists. One group of critics suggested that some people were born into criminality, predestined by their genetic inheritance. Later variations on this determinist theme were based on psychology or sociology. Criminality was largely a product of psychological profile or social and economic circumstances. All of these theories suggested that the ultimate cause of criminal behaviour was beyond the control of the individual. The policy implication was that punishment might not be an appropriate response.

Modern criminal justice practices have been influenced by all of these theories. They all contain an element of truth. They also contain serious flaws. Recent attempts to deal with some of the more obvious flaws have prompted a reversal of the basic question about law-breaking and predatory behaviour. The focus has more recently been on understanding compliance rather than transgression. It is considered that a better understanding of why most people abide by the law most of the time may lead to better ways of responding to those people who do break the law, who do victimise and violate the rights of others - at least some of the time. A better understanding is required of why most people have some empathy for others and why they respect the rights of their fellow citizens. Braithwaite's contribution to this understanding has been significant.

Crime, Shame, and Reintegration suggests that most people obey the law not primarily because they fear formal penalties but for reasons of greater personal significance. First, they obey the law because their conscience does not allow them to do otherwise. Breaking a just law would violate their idea of themselves as positive moral agents. Second, most people obey the law because they fear disgrace in the eyes of the people who matter to them.

A recent study from New Zealand provides strong empirical support for this theory. Julie Leibrich offers a sophisticated analysis of the reasons why a group of her compatriots had "gone straight", breaking a pattern of offending. Her analysis clearly shows that the combined effect of shame and pride is far more significant as a motivator than is the fear of punishment.¹⁴

¹³ Any summary of this nature will contain oversimplifications. For some sophisticated recent essays on the history of classical criminology, see Piers Beirne, *Inventing Criminology: Essays on the Rise of Homo Criminalis*, Albany: SUNY Press, 1993. For examples of how the principles of deterrence and discouragement can guide well-designed modern crime prevention projects, see the series *Crime Prevention Studies*, Monsey, NY: Willow Tree Press, the first volume of which was edited by Ron Clarke in 1993.

¹⁴ See Julie Leibrich, *Straight to the Point: Angles on Giving Up Crime*, Dunedin: University of Otago Press, 1993, especially the table on page 52. Insofar as such factors are quantifiable, reports from participants in Leibrich's survey suggest that the combined effect of shame, pride, a feeling of

To be more precise, two distinct experiences of shame can be identified as behavioural motivators or inhibitors that encourage compliance with social norms. (1) When shame is evoked by public exposure of inappropriate behaviour, a person experiences "disgrace shame". (2) Conversely, when a person is deterred from completing an action by an intimation of the *potential disgrace* that the action might evoke, then shame has encouraged *discretion*. Conscience has served as a constraint. "Discretion shame" is thus a significant agent of individual conscience.¹⁵

In both cases, shame plays an important role as a regulator of social life. But the two experiences of shame differ in their intensity. The public experience of disgrace shame is clearly intense and unpleasant, the feeling of discretion shame far less so. The former is overwhelmingly affective, the latter seems largely cognitive. Discretion shame is a private means of intuiting what behaviours are publicly appropriate, and it is an internal reminder of one's bonds with others. When a person has an active conscience and is regularly reminded of their bonds with relatives, friends and colleagues, they should generally be able to avoid the more painful disgrace shame that is evoked by inappropriate behaviour. Experiences of discretion shame will help to avoid disgrace.

Taking account of such arguments about the social significance of shame, the theory of reintegrative shaming identifies several reasons for the failings of modern criminal justice systems. Modern criminal justice systems lack a means by which to foster consciences. They lack a means by which to strengthen an offender's ability to feel discretion shame. They lack a means by which to strengthen bonds between offenders and their supporters. Indeed, modern criminal justice systems seek to do exactly the opposite. They offer "ceremonies of degradation" that stigmatise offenders, setting them apart from the community.¹⁶ Offenders may be set apart symbolically, through public denunciation. They may be set apart literally, in detention centres and prisons.

An offender who represents an immediate physical threat to other citizens should indeed be set apart from the general community in order to ensure the safety of others. But how can this physical removal be justified in other cases? If Braithwaite's explanation of offending is correct, then the policy of severing an offender's links with the community is quite illogical. Social links need to be strengthened rather than severed. New links need to be nurtured. The crucial point here concerns the response that follows the public experience of shame.

Braithwaite argues that officialdom has generally sought to evoke shame as a prelude to stigmatisation. But this sequence is not inevitable. Stigmatisation need not necessarily follow shame. In the presence of people with emotional ties to either perpetrator or victim - in the context of supportive "communities of care" - a person who is shamed may be reintegrated rather than stigmatised. A person may be brought back into the fold, rather than cast from it. Braithwaite suggests that the process of

interpersonal responsibility and a reassessment of values was four times as significant as the fear of increased penalties in the decision to "go straight".

¹⁵ This distinction is generally attributed to Carl Schneider. See his *Shame, Exposure, and Privacy*, Boston: Beacon, 1977.

¹⁶ The standard reference here is Harold Garfinkel's "Conditions of Successful Degradation Ceremonies", *American Journal of Sociology*, 61, 1956.

strengthening rather than severing a person's links with their community can be initiated by a "ceremony of reintegration".

Of course, some of the most basic examples of reintegrative shaming can be found in the daily routines of parenting. Here a contrast may be drawn between the means by which effective parents manage behaviour, and the means by which public agencies attempt to ensure compliance. Good parenting seeks a balance between an ethic of care and an ethic of justice.¹⁷ Rules are clearly defined and are enforced, but love, tolerance, and an awareness of needs temper the strict enforcement of these rules. To take a simple example: An older child hits her younger brother. She is reprimanded, she remonstrates, then bursts into tears. She may be temporarily sent from the room, but is later hugged. Here, in its simplest form, is a sequence of crime, shame, and reintegration. The response is simple, humane, educational - and effective.

Developmental and educational psychology provide terminology with which to identify the general principles behind this specific example. These general principles may thus be applied in other areas. In the terminology of developmental psychology, the parental response described here is neither authoritarian nor permissive. It is *authoritative*. Educational psychologists, unlike most contributors to debates in criminal justice, have long recognised this third approach to social regulation and the enforcement of rules. The differences between the three approaches are as follows:

(1) The principle governing the *authoritarian* approach is that, in order to send a clear message about the unacceptability of an act, one must punish the perpetrator. This approach is exemplified in criminal justice by the just deserts model.

(2) The principle governing the *permissive* approach is that, because one does not wish to harm the perpetrator, one must justify, excuse, condone or ignore an unacceptable act. This approach is exemplified in criminal justice by the welfarist model, and by most "diversionary" schemes.

(3) The principle governing the *authoritative* approach is that a clear message must be sent about the unacceptability of an act, but support must be offered to the perpetrator (and the victim). An authoritative process strikes a balance between an ethic of justice and an ethic of care.

Here, then, is the reason why there are so few authoritative processes in any official systems of social regulation: An ethic of care can only be offered by people with ongoing emotional attachments to the perpetrator. State officials do not generally have such attachments to the subjects of their attentions. In state-centred justice systems, either the perpetrator is punished in order to send a message about the unacceptability of the act, or the moral unacceptability of the act is overlooked. Authoritarian and permissive responses make no clear distinction between act and perpetrator. Generally lacking meaningful ongoing relationships with the subjects of their attentions, public officials are rarely in a position to offer an authoritative response.

¹⁷ For a clear summary of this debate between proponents of an ethic of justice and proponents of an ethic of care, see Joan Tronto, *Moral Boundaries: A Political Argument for an Ethic of Care*, New York: Routledge, 1993.

Now there is a highly significant parallel between these three regulatory approaches and the three psychological circumstances under which an individual might offend, might fail to heed the moral imperatives underlying both social rules and the criminal law.¹⁸ The first set of circumstances is when a person fully understands the moral requirements of a situation and yet, despite this, acts immorally, acts illegally. The second set of circumstances is when a person is morally deficient - by birth or by socialisation. Inheritance, psychology, or society have conspired to make such people incapable of distinguishing right from wrong. They may be physically constrained, but cannot be blamed. Classical and neo-classical criminology have been concerned with the first group. An *authoritarian* response seems most appropriate to the actions of the wilfully illegal and *immoral*. Most critics of classical criminology have been concerned with the second group. A *permissive* response seems most appropriate to the *amoral*.

But there is a third set of circumstances under which an individual may fail to heed moral imperatives. Indeed, this is the most common set of circumstances under which laws are broken. These are circumstances in which a person misconstrues a situation. They are unaware of the full consequences of their actions. They are unaware of the number of people harmed by their actions, and unaware of the extent of that harm. They do not feel that their behaviour is immoral, though they may well understand that their behaviour is technically illegal. Unlike the person who fully understands the situation but breaks a just law anyway, the person who misconstrues a situation is not immoral. Nor is the person who misconstrues a situation amoral, in the manner of the person who is constitutionally incapable of distinguishing right from wrong.

The person who misconstrues a situation has failed to heed moral imperatives but such a person may be neither *immoral* nor *amoral*. Rather, such a person may be considered *potentially moral*. This is true of the majority of young offenders. It is also true of many older offenders who first entered the system as juveniles. Squaring off against a system which seeks to victimise them, however, they will have learned to focus on themselves, rather than on the consequences of their behaviour for others. They will have lost the ability to feel the full consequences of their actions, to empathise with those they have affected. And yet, under circumstances that force them to understand those consequences, they will display a moral response. They will empathise; they will feel remorse; they will offer to make reparation.

Unfortunately, modern criminal justice systems have found it difficult to arrange for circumstances in which people can fully understand the consequences of their actions and make some active contribution to repairing the harm. An authoritative process, which would condemn the act but provide support for the perpetrator, would be most appropriate response for that vast majority who are potentially moral. The modern state, however, having been unable to offer authoritative processes, has generally been limited to a repertoire of authoritarian or permissive processes. Its only alternative to a ceremony of degradation has been the absence of any ceremony. So most offenders are treated as if they are either immoral or amoral, when in fact they are neither. (If they

¹⁸ Robert Richards, *Darwin and the Emergence of Evolutionary Theories of Mind and Behaviour*, Chicago: Chicago University Press, 1987 pp. 625-6

stay in the system long enough, of course, many tend to behave as if they are indeed immoral or amoral.)

This tendency to see people who are dealt with by the criminal justice system as either immoral or amoral is exacerbated by the general tone of public debate about criminal justice. Such debate frequently focuses on the severity of sentences dealt out to offenders. From all that is known about the factors which discourage offending, however, the degree of certainty of detection is more significant than the speed with which a matter is to be dealt, and both of these factors are more significant than the likely weight of the sentence.¹⁹

Part of the reason for this hierarchy of significance is that *sentencing* is further removed in time than is *detection* or *processing*. But the system is unable to guarantee detection of the crime, nor can it ensure speed of processing if the crime is detected. *In the absence of certainty and celerity, debates focus on severity*. Further public anger is evoked. The assumption that offenders are either immoral or amoral goes unquestioned.

In sum, modern criminal justice systems have assumed that offenders are immoral or amoral, and have responded with authoritarian or permissive processes. And yet the bulk of offenders are potentially moral. They and everyone else affected by their actions would be better served by an *authoritative* process.

Modern criminal justice systems have used anger and fear as motivators, and have evoked shame as a prelude to stigmatisation. But love and pride are more powerful long-term motivators than are anger and fear. And shame can be followed by reintegration of both perpetrators and victims, rather than by stigmatisation. The significance of the family conference in these terms is that it is a ceremony of reintegration which treats perpetrators as *potentially moral*, and responds to an incident in an *authoritative* way.

Because the authoritative principles underlying the conference design seek to balance an ethic of justice with an ethic of care, emotion is seen here as being at least as important as cognition - perhaps more so. To argue along these lines, however, is not to subscribe to some simplistic dichotomy between the rational and the "irrational". Modern psychology is increasingly recognising "the strategic role of the emotions", the subtle inter-relationships between emotion and cognition.²⁰ Rational thought, discussion, and action are seen to operate within boundaries or parameters set by the emotions. Thus, feelings of fear, shame or disgust constrain certain behaviours - even certain thoughts. Conversely, feelings of anger, interest, or enjoyment promote other behaviours, other thoughts. One of the larger tasks of this evaluation has been to draw on psychological theory in order to build a model that accounts more fully for the role of emotions in conferences.

¹⁹ The most sophisticated longitudinal studies of effects of arrest show no support whatsoever for the claim that tougher sentences lower recidivism rates. See Patricia Brennan & Sarnoff Mednick, "Learning Theory Approach to the Deterrence of Criminal Recidivism", *Journal of Abnormal Psychology*, 103 (3) 1994.

²⁰ See, for instance, Robert Frank, *Passions within Reason: The Strategic Role of the Emotions*, New York: W.W. Norton, 1988

The social psychology of transformative justice (2): psychology

Several factors prompted the search for a theoretical model of emotions and social interaction that is consistent with the theory of reintegrative shaming:

- Matching observations from New Zealand and Wagga Wagga seemed to suggest that most conferences proceed through a standard emotional sequence, regardless of the nature of the offence or the background of participants.
- One group of critics of the model and process claimed that the experience of shame may be intrinsically harmful.
- Another group of critics claimed that shame is a "cultural construct", varying so significantly from one ethnic group to another that a process of reintegrative shaming would not be "culturally appropriate" for certain ethnic groups.

Detailed observations of conference dynamics in New Zealand were made by Judge Michael Brown, one of the key proponents of the 1989 juvenile justice reforms in that country. The summary of Judge Brown's experience was that, despite differences in the size of conferences, and despite differences in the nature and "seriousness" of offences, he has consistently observed an emotional sequence he describes with terminology that has a sacred rather than secular flavour. A change of heart occurs, he says, as the offender is given the opportunity to express remorse, as arrangements are made for expiation, and as the often long process of forgiveness is initiated by the victim. At the beginning of conferences, participants generally feel anger, fear, and distress. They also experience shame, followed by surprise when the point of view of other participants is revealed. But this negative emotional sequence is followed by more positive emotions as the conference moves towards some form of resolution.²¹ These observations of conference dynamics in New Zealand matched observations made by several observers of the Wagga program.

However, critics of the Wagga program had suggested - both privately and publicly - that the dynamics and outcomes of conferences could not take this constructive form. Conferences, they said, would harm offenders, or would have no effect on some. One line of criticism suggested that offenders would be harmed because shame is intrinsically harmful. The other major line of criticism suggested that the experience of shame varies so greatly from one culture to another that the theory of reintegrative shaming could not apply to members of some cultures.

The superficial differences in these two lines of criticism should not obscure their fundamental similarity. Both lines of criticism assume passive subjects. Those who advocate *minimal* intervention do so on the grounds that any experience to shame will lower a person's self-esteem. According to this model, which has been strangely influential in educational psychology, people are subject to experiences that raise or lower their self-esteem. Negative experiences lower self-esteem. Positive experiences

²¹ Judge Brown's views are available in various publications, but this summary of his views is recalled from conversations held through 1993 and 1994.

raise self-esteem. Accordingly, say the advocates of minimal intervention, people should be exposed to positive experiences and shielded from negative experiences. If confrontation with the full consequences of one's actions is likely to be a negative experience, then that experience - according to of this line of argument - should be avoided.

Those who advocate *therapeutic* intervention start from different premises. Some of the advocates of therapeutic intervention argue that culturally sensitive experts are required to deal with clients from different cultures. Specially tailored responses are required, they say, rather than some generic process. Their specific criticism of conferencing has been that shame is experienced differently by members of certain ethnic or cultural groups. The "cultural construction" of shame differs from one group to another, and the evocation of shame may thus not be appropriate for some groups.²²

The policy of minimal intervention and the policy of therapeutic intervention are, in sum, both premised on a psychological model of the passive subject. *Minimal* intervention is advocated by those who see a person's level of self-esteem as a ratio of the positive and negative experiences to which they have been subjected. *Therapeutic* intervention is frequently advocated by those who see individuals as blank slates on which the emotional rules of their culture have been written. In the tiresome and wrongly-framed "nature-versus-nature" debate, advocates of both minimal intervention and therapeutic intervention have come down firmly on the side of nurture. They are in the mainstream behaviourist tradition.

The myriad logical or empirical deficiencies of behaviourist psychology notwithstanding, behaviourism's model of the malleable and programmable subject has appealed to not a few political theorists and practitioners. But this is not the place to summarise the deficiencies of the behaviourist model of psychology. For the narrower purposes of this report, the chief failing of the behaviourist model is its inability to account for the psychosocial phenomena observed during and after conferences in Australia and New Zealand. On the one hand, if the more simplistic theories of self-esteem were correct, then the experience of shame in conferences would damage self-esteem. But the opposite appears true. On the other hand, if the theory that emotional reactions are "culturally constructed" were correct, then conferences with participants from different cultural backgrounds could not be run successfully and conferences would have little impact on people from certain cultures. Again, there is no evidence to support such claims, and plenty of evidence to the contrary. Observations from New Zealand and Wagga Wagga - and additional evidence from other jurisdictions where conferencing is being trialed - all suggest that participants experience the same basic emotional sequence. Participants appear to experience this sequence regardless of the nature of the offence, and regardless of their cultural background(s).

The behaviourist model is thus inadequate to the task of explaining these (and many other) phenomena. But some other mainstream psychological theories are scarcely more helpful. The most influential rivals to the behaviourist model of human blank

²² It may or may not be significant that the only people we have heard make this claim have been public officials of European extraction, and the people about whom they have made it have been indigenous Australians or people from cultures other than Western Europe.

slates have been Freudian theory and various cognitive psychological models. Again, despite superficial differences, these theories share a basic flaw. They all emphasise one aspect of human psychology at the expense of others. Where behaviourism has been overwhelmingly concerned with acquired habits, psychoanalytic theories have offered nineteenth century metaphorical accounts of motivation. Cognitive psychological models, in contrast, have underemphasised the role of both acquired habits and motivation. They have overemphasised the role of cognition.²³ So the dominant psychological models have focussed excessively either on habits, or on motivation, or on rational calculation. Criminal justice practitioners who retain their commitment to the classical criminological model, with its rational calculating offenders, make the same mistake. Theorists who argue for temperamental, psychological or social determinism do so too. All ignore the relationship between habits, motivation, and rational thought.

Psychological models offering plausible accounts of the relationship between habits, emotions and rational thought are nevertheless available. There are models that accord with the evidence across a range of disciplines. And the model that best fits the evidence from conferencing programs in New Zealand and Australia also offers a clear rebuttal of behaviourist arguments that shame is either intrinsically harmful, or that shame differs so greatly from one culture to another that the theory of reintegrative shaming cannot have general application. The psychological model that best supports the evidence from both New Zealand and Australia is called "affect theory". (Affect theory gave rise to, but is not quite synonymous with, "differential emotions theory".²⁴) It is supplemented by a related model known as "script theory".

Detailed summaries of affect theory are available elsewhere.²⁵ The essential points are these: Affect theory holds that there is a small number of basic emotions or affects shared by all people. These physiological reactions, which register on the face and at other sites around the body, are innate sub-cortical programs triggered by neural stimulation, and differentiated by the intensity and pattern of that neural stimulation. The affects are innate rather than learned. The system they constitute is a sort of template through which people experience the world from birth. Thus, the infant does not need to learn how to cry in distress or in fear, nor how to startle, nor how to squeal with joy. It is born with these capacities, which motivate it, and which tell it what is important in life.

²³ The discipline of Artificial Intelligence has been partly responsible for this continuing overemphasis, in some theoretical models, on detached logical calculation as the machine analogy for human psychology. See David Gelernter, *The Muse in the Machine: Computers and Creative Thought*, London: Fourth Estate, 1994.

²⁴ The phrase "Differential Emotions Theory" (DET) is most commonly associated with the work of Paul Ekman and Carroll Izard on facial expression.

²⁵ D.B. Moore "Evaluating Family Group Conferences: Some Early Findings from Wagga Wagga" in Biles, D. & McKillop, S. (eds) *Criminal Justice Planning and Coordination* Canberra: AIC, 1994, and "Pride, Shame and Empathy in Peer Relations" in K. Oxenberry, K. Rigby & P. Slee (eds), *Children's Peer Relations: Cooperation and Conflict*, Adelaide: University of South Australia, 1994. More generally, see D.L. Nathanson, *Shame and Pride: Affect, Sex, and the Birth of the Self*, New York: W.W. Norton, 1992; J.A. Singer & P. Salovey, *The Remembered Self: Emotion and Memory in Personality*, New York: Basic, 1993. The original formulation of affect theory is to be found in the four volume work by Silvan Tomkins, *Affect/ Imagery/ Consciousness*, New York: Springer, 1962/63/91/92. Script theory is given elaborate treatment in the third volume.

According to Silvan Tomkins, the founder of modern affect theory, there are nine affects. Six of these he called primary affects, two he called drive auxiliaries, and one he called an affect auxiliary. The six primary affects are fear, anger, distress, surprise, interest and enjoyment.²⁶ The ability to experience and express these primary affects has a basic survival value. Affects provide an immediate and powerful message about what is important in life.

In addition to the six primary affects, the theory holds that three additional affects have evolved - making a total of nine. Tomkins called the additional affects disgust, dissmell, and shame. Building on earlier speculation by Darwin, Tomkins argued that these additional affects evolved as auxiliaries to existing physiological systems. Thus, the affects of disgust and dissmell evolved as auxiliaries to the basic drive to eat. As negative responses to taste and smell, disgust and dissmell evolved as means of protection against that which is biologically poisonous. But these brakes on the drive to eat have also come to be used symbolically. Expressions of disgust and dissmell in humans do not always indicate an unpleasant taste or smell. Such expressions are also used to convey negative feelings towards unpleasant experiences or people. Thus, because of their value in symbolic communication among intelligent social animals, the drive auxiliaries of disgust and dissmell have become harnessed to the affect system. The most powerful symbolic use of disgust and dissmell is in contempt, which mixes these affects with anger in order to convey individuation and hate.

The final affect identified by Tomkins is shame. Its evolution is explained by analogy with disgust and dissmell. Just as disgust and dissmell evolved as brakes on the *drive* system, so shame evolved as a brake on the *affect* system. Thus, in much the same way that disgust and dissmell originally evolved as a protection against the *biologically* poisonous, so shame evolved as a protection against the *socially* poisonous. Strictly speaking, then, while disgust and dissmell were originally *drive auxiliaries* that subsequently developed into affects, shame evolved as an affect *auxiliary*. Shame acts as a brake on the positive affects of interest and enjoyment. And this reasoning is at the heart of Tomkins' startlingly novel definition of shame as a sudden impediment to interest and enjoyment.²⁷ Shame will thus occur "whenever desire outruns fulfilment", whenever one's physical or social limits are exceeded.²⁸

The physiological basis of shame is apparently the sudden release of powerful vasodilators in the limbic system, producing that unmistakable response: The neck muscles lose tone, the face is lowered and sometimes covered with the hands. The gaze is averted and the skin reddens. Interest and excitement are interrupted, as are attention and cognition. Tomkins' interpretation extends Darwin's hypothesis that this shame response is the most recently evolved of the innate affective responses, and that shame is experienced only by higher mammals, perhaps only by the higher primates.

²⁶ In purely abstract terms, the responses they most commonly prompt are, respectively, to withdraw from that which is perceived as negative, approach that which is perceived as negative, recognise sameness, recognise sudden change, approach that which is perceived as positive, and withdraw from that which is perceived as positive.

²⁷ Tomkins 1963 *op. cit* p. 123

²⁸ Nathanson 1992 *op cit* p. 138

Donald Nathanson, who has produced the clearest comprehensive summary of affect theory to date, describes the social significance of the shame response in the following terms: "Since it is the mutualisation of interest-excitement and enjoyment-joy that powers sociality, shame is [...] an innate modulator of affective communication".²⁹ Shame is the brake on interest and excitement. It provides a dramatic reminder of individual and social limits.

The positive emotion of pride, in contrast, is developed through repeated sequences of the interest and enjoyment that accompany achievement. And there is a dialectical relationship between shame and pride. This relationship is one of the most powerful sources of motivation. It is an essential aspect of developmental psychology. Thus, unless something interferes with the process,

pride is attached to the acquisition of each moiety of normal growth and development and shame is attached to any failures along the way. As each way station on the road to maturity is reached, it soon loses its power to trigger pride; while at all stages in development reminders of one's previous (and therefore more primitive) status remain capable of activating shame.³⁰

Shame thus influences behaviour from infancy. But it is also the dominant affect powering more complex emotions such as embarrassment, guilt and awe. Embarrassment, according to this model, can be understood as shame evoked in the event of a breach of largely aesthetic social norms. The feeling of guilt can be understood as shame evoked for the transgression of moral and legal norms, together with fear of reprisal. Awe can be understood as shame evoked by some phenomenon which makes the self, by comparison, seem diminished.

To clarify such definitions, a distinction needs to be made between affects, feelings, emotions and moods.³¹ Nathanson defines *feeling* as the conscious awareness of an affect. He defines *emotion* as the result of an association between a present feeling and related past feelings. And he defines *mood* as a persistent emotion or set of emotions. Moods are the result of a sort of feedback loop by which the same affects are repeatedly evoked over an extended period. So affects can be "contagious", generating more of the same within an individual. And this phenomenon also occurs *between* individuals. Affects thus play a vital role in human intersubjectivity. They play an essential role from the moment when an infant first mimics its mother's smile or causes distress in its parents with its own distress. Facial expressions and bodily posture broadcast affect from one individual to another.

The associated theory of scripts builds on affect theory, providing an account of the differences in affective association at an individual, sub-cultural and cultural level.³² Script theory is

²⁹ *ibid* p. 134

³⁰ *ibid* p. 16

³¹ *ibid, passim.*

³² See Singer & Salovey op. cit; also S.S. Tomkins, "Script Theory" in J. Aranoff, A.I Rabin, & R.A. Zucker (eds), *The Emergence of Personality*, New York: Springer, 1987

a grand attempt to integrate models of perception, cognition, memory, affect, action, and feedback theory. [...] The unit of this integration is the scene, which consists of at least one affect and at least one object of that affect.³³

The general significance of affect and script theory is considerable. They provide the basis for a balanced model of the relationship between habits, motivation and cognition. They provide new insights into interpersonal communication. But the specific significance of affect theory to this evaluation is that it provides a highly plausible explanation of the dynamics of conferences. It also provides a psychological counterpart to the sociological theory of reintegrative shaming. And here affect theory also provides a clear theoretical rebuttal to behaviourist claims that shame is intrinsically harmful, or that shame is a cultural construct.

In response to the argument that shame is intrinsically harmful, affect theory suggests that shame is neither good nor bad. Rather, shame is simply part of human physiology and psychology. It is negative only insofar as people seek to avoid it. Shame is thus a guide to action and to restraint. More accurately, people seek to avoid shame because of shame's role as an auxiliary to the positive affects of interest and enjoyment. Shame is a brake on the untrammelled expression of the positive affects and marks their sudden and incomplete reduction.. To be without shame, however, would be to lack a basic means of environmental feedback. Shame is no more intrinsically harmful than is anger, fear, distress or disgust.³⁴

But some young people, it has been argued, show little remorse for their unacceptable actions; they do not appear ashamed. Appearances may be deceptive, however. As is indicated by several cases discussed in the third chapter of this report, the apparent absence of shame can usually be better understood as a more general emotional disengagement in response to earlier shameful, distressful or fearful episodes. And, as we have argued elsewhere, the *collective* experience of shame in conferences seems to teach a paradoxical lesson about shame. This lesson may "re-engage" the emotions. The lesson taught by the collective experience of shame is that one need not be ashamed of feeling shame.³⁵

In response to the argument that shame is socially constructed, affect theory distinguishes the basic physiology of the *affect* of shame from the more complex *emotion* of shame. The emotion of shame is, by definition, based on repeated experiences of the affect of shame and on associations of that affect with various experiences, various "scenes". Yes, within different cultures and sub-cultures, different responses to shame are encouraged. And yes, situations that evoke shame in some cultures may not be considered shameful in others. But the physiological experience of

³³ Singer & Salovey *op. cit.* p. 28

³⁴ Of course, it is possible for people to react to prolonged and persistent experiences of negative affect by "emotional disengagement". The blank look of the chronically shamed is one example of this phenomenon. Post Traumatic Stress Disorder appears to be another example of this psychological strategy. On PTSD, see especially Jonathan Shay, *Achilles in Vietnam: Combat Trauma and the Undoing of Character*, NY: Atheneum, 1994. Note that this theoretical model is *not* to be confused with claims of "repressed memory syndrome". See Frederick Crews, "The Revenge of the Repressed", *New York Review of Books*, Nov 17, 1994.

³⁵ Cases discussed by Kathy, Ted, Hilary and Paul in the third chapter illustrate positive changes, in the wake of conferences, for chronically shamed young people.

shame is a human universal, as is the dialectical relationship between shame and pride. Cultural differences in shame are thus matters of degree, not kind.

In sum, affect theory holds that shame is a human universal which plays an essential role in social regulation. The theory also provides a clear explanation for the observation that conferences move through a standard emotional sequence which apparently engages all participants. And finally, the theory suggests a profound psychosocial explanation for the apparent success of conferences. This explanation, which is fully consistent with the theory of reintegrative shaming, suggests that the success of conferences lies in their ability to realise fundamental motivational principles.

The fundamental motivational principles realised in conferences are outlined in the first volume of Tomkins's major treatise on the affect system. Here he suggested that the roles of positive affect as a "reward" and negative affect as a "punishment" make inevitable the development of four fundamental motivating principles. These principles are: (1) That positive affect should be maximised. (2) That negative affect should be minimised. (3) That affect inhibition should be minimised. (4) That power to maximise positive affect, to minimise negative affect, and to minimise affect inhibition should be maximised.³⁶

The conference process allows for the effective realisation of these principles in a controlled setting with specific goals. Thus, there is encouragement for affect inhibition to be minimised because participants are actually asked to express how they have felt about their involvement in the offending incident - whether as victim, offender, or supporter. Negative affects of anger, fear, distress, disgust, dissmell and shame are powerfully expressed, and are experienced by all participants. But once expressed, "broadcast" and shared, each negative affect is then gradually minimised. Conversely, the positive affects of interest and even enjoyment are evoked and gradually increased, as participants begin to move towards arrangements for reparation and restitution. The trigger for this shift from the negative to the positive is usually twofold. The trigger is usually the evocation of the "neutral" affect of surprise, followed by the coordinator's question about what the victim was expecting from the conference.

The transcripts reproduced in the third chapter of this report convey some feeling for the transition from negative to positive, even though the transcripts can only hint at the emotional tone of each stage of the conference. Surprise tends to be evoked at several points in a conference. It is evoked when new details of the offender's story emerge. It is evoked when family members and friends reveal how much they have been affected by the incident and its aftermath. And surprise is evoked particularly strongly when the effect of the incident on the victim(s) is described. This is the point at which the coordinator will ask what the victim expects.

There is more surprise here, of course, because victims seem consistently less concerned with retribution than the received wisdom would suggest. Victims, it seems, are concerned to have their procedural, psychological, and material needs met. And if these needs are met, then justice is perceived to have been done. Furthermore, simple

³⁶ Tomkins 1962 *op. cit.* p. 328

acts of expressing remorse, offering atonement, and expressing forgiveness can effect powerful changes. As one student of the phenomenon has put it, the remarkable and paradoxical quality of forgiveness is that it cannot undo what has been done, and yet, "in a mysterious way...this is precisely what it manages to do".³⁷

An hypothesis supported by this evaluation is that the power of an exchange of apology and forgiveness is related to the social context in which the exchange occurs and to the process that allows it to occur. The power of forgiveness is related to the complexity of the relationships involved and to the emotional nature of the broader process within which an apology is offered. These phenomena again require both a sociological and a psychological explanation.

An important part of the sociological explanation is provided by Tavuchis, whose sociology of apology, forgiveness and reconciliation identifies four modes of apology. Apologies, he says, may be offered from one to one, from one to many, from many to one, and from many to many.³⁸ The conference process provides for exchange in all four of these modes. Thus, not only does an offender apologise to a victim, but also to all present. The offender's supporters apologise to the victim or victims individually, but also apologise collectively to the victim's community of care.

It is important to note that apology and forgiveness can occur in all four modes because conference participants are acknowledging *shame* felt for a breach of moral norms. Shame is vicarious. Technical *guilt* for the breach of legal rules is not. Affect theory distinguishes here between the *affect* of shame, a *feeling* of guilt - a mix of shame brought about by one's actions and fear of reprisal - and an ostensibly *rational* judgement about legal culpability. While culpability is restricted to the offender, shame spreads across a social network. The affect of shame is experienced by all those who share some emotional connection with the offender.

Thus, where sociological theory identifies and counts the interpersonal bonds in this social network, psychological theory provides an account of the mechanism by which those interpersonal bonds are strengthened or weakened. The conference process is powerful, according to affect theory, not just because apology and forgiveness are exchanged from one to one, one to many, many to one, and many to many. The power of the process derives, more fundamentally, from its ability to minimise the inhibition of affect, and then to minimise negative affect while maximising positive affect. But note that the process does *not* (in the words of the Gipsy Rose Lee) accentuate the positive and *eliminate* the negative. Rather than being "eliminated" through being ignored or avoided, negative affect is reduced, fine-grained, brought under control. And what allows it to be brought under control is the format of the conference.

The conference focuses on the goal of repairing the damage and minimising further harm. The format of the conference encourages cooperation in devising the terms of an agreement to achieve that goal. Conference participants are similarly motivated to move beyond a situation that is evoking negative affect. Withdrawal of cooperation,

³⁷ Nicholas Tavuchis, *Mea Culpa: The Sociology of Apology and Forgiveness*, Stanford: Stanford University Press, 1991, p. 20

³⁸ *ibid.*

verbal attacks on the self, or verbal attacks on other participants only evoke more negative affect.³⁹ Once people have explained how the incident *affected* them, only constructive engagement and cooperation will work to minimise negative affects and maximise positive affects. Once people have got the shame, anger, disgust and fear "off their chests" - to use the telling metaphor, they can begin to cooperate. In the course of this cooperation, negative affects appear to be "transformed" into positive affects. Furthermore, in the more successful conferences, constructive engagement and cooperation appear to transform relationships between participants. Hence "transformative justice".

³⁹ These response are "poles" on Nathanson's "compass of shame" - which identifies four classes of response to shame. Thus, in response to shame, a person may withdraw, attack self, attack other, and avoid the affect through diversions. See Nathanson 1992 *op. cit.*

CONCLUSION

This report has offered an evaluation of one juvenile justice program in one city in New South Wales, but it has placed that program within a much broader context. The report has argued that the development of the Wagga model should be understood as a logical confluence of reforms in juvenile justice, in criminal justice more generally, and in policing.

In juvenile justice, the model moves beyond the competing philosophies of authoritarian legalism and permissive welfarism. The model is guided, instead, by an authoritative philosophical mix of reparation, harm minimisation, education, and transformation. In criminal justice more generally, the model moves away from retributive justice towards restorative justice and, beyond that, to transformative justice. In policing, the model moves beyond the first phase of community policing, in which the concept of community policing has been used largely as a management tool. It moves into a second phase of community policing, in which communities are defined locally, in which policing is defined primarily as peacekeeping, and in which uniformed officers do not have a monopoly on policing.

Conference transcripts have been reproduced at length in this report. The aim has been to convey some of the flavour of conferences, and to convey a feel for conference dynamics. Likewise, those participants who subsequently agreed to be interviewed have had their interviews reproduced at length. They have been allowed to speak for themselves - within the technical constraints of the print medium.

The reader will have to decide whether the theoretical account provided in the sixth chapter of the report is consistent with the material presented in earlier chapters. Certainly, that theoretical model is generally consistent with mainstream models from the several disciplines on which it draws. And the statistical evidence presented here suggests that something significant is indeed happening during and after conferences.

In sum, the process and model appear to work in practice, and the theoretical model provides an account of why this should be so. Accordingly, the report concludes with a detailed list of recommendations concerning the implementation of a conferencing model, the key features of that model, and the format of the conference process at the heart of the model.

INTRODUCTION

This report is concerned with a process known as the family group conference, the basic principles of which are simple. In the wake of an offence, and where guilt is admitted, victims, offenders, and their supporters are given an opportunity to meet in the presence of a coordinator or facilitator. Conference participants are encouraged to discuss the direct or indirect effects of the incident on them. They may then negotiate plans for repairing the damage and minimising further harm arising from that incident. The conference process is guided by participatory democratic principles. It seeks a just response to a harmful breach of social and/or legal norms.

The report analyses the dynamics of this process. Analysis is undertaken within an interdisciplinary theoretical framework that includes psychology, social theory, political science and moral philosophy. However, the report is not concerned with the conference *process* alone. It is also concerned with one particular administrative *model* within which that process is employed. The model in question was developed as a way of dealing with matters of juvenile justice. For the obvious reason that it was developed in the southern New South Wales city of Wagga Wagga, it has become widely known as the "Wagga model". The essential features of the Wagga model are that family group conferences are convened by police, and are convened within the same legal and administrative framework that allows for the formal cautioning of young people. There is, however, a fundamental difference between a formal caution and a family group conference. In the former, a state official focuses on the character of an individual and urges change. In the latter, state officials cede to the community of people most affected by an incident the authority for responding to that incident. In a conference, the focus is ultimately on the incident itself, rather than on the victim or the offender. Furthermore, a collective rather than an individual response is sought to that incident.

While a model in which police coordinate conferences is something new, the family group conference is not. The process is derived from Maori practice. As one of its foremost advocates, Judge Michael Brown, rightly reminds people: "We've been doing this for hundreds of years!". Not surprisingly, many indigenous peoples find aspects of the process familiar. But it is only recently that the conference process has been adopted and adapted in Australasia within the legal and social regulatory system derived from Britain. Various models employing the conference process are now emerging. These models are distinguished, in the first instance, by the department or departments that coordinate the process. In New Zealand, the department of social welfare has been the central coordinating agency for the conferencing program. In Wagga Wagga, in other parts of New South Wales and in the Australian Capital Territory, conferencing programs have been established by police. (Although at the time of writing, the Department of the Attorney General in New South Wales has been seeking to limit the role of New South Wales police in this program.) In South Australia, the court services department is responsible for convening family group conferences. In Western Australia, "multi-agency youth justice teams" have been established to trial family conferencing. And in Queensland, school guidance officers have begun to employ the process for dealing with serious incidents of victimisation within schools. Despite these differences, however, central agencies and local

reformers have had similar rationales for wishing to improve the juvenile justice system. These rationales include:

The desire to find a process that reduces rates of reoffending, and that, in the long-term, reduces the number of young people who reach the system of detention centres and jails.

This argument is very popular in principle. Few are prepared to experiment with properly evaluated programs in practice.

The desire to reduce the number of young people being sent to court.

There are, in turn, several reasons for wishing to reduce this number:

(1) The efficiency argument. Around two thirds of first offenders do not reoffend. Therefore, according to this line of argument, the valuable time of highly trained judges, lawyers, police, and other court officials is wasted on first offenders. Their cases do not warrant official intervention beyond the initial investigation. This argument is popular with many criminologists and with public officials who have budgetary responsibilities.

(2) The labelling theoretical argument. According to this line of argument, appearance before a court labels a young person as an offender, and the burden of this label actually increases the likelihood of reoffending. The evidence is at best mixed, but the argument has been popular.

The desire to extend to victims the right to participate in the process by which a community responds to an offence.

There is growing dissatisfaction with the almost exclusive focus of modern systems of criminal justice on the accused. Some politicians and state agencies have been happy to interpret the concerns of victims' rights groups as a call for tougher penalties, since echoing a call for tougher penalties may translate into additional votes or greater departmental funding. But victims' rights groups are not necessarily calling for tougher punishment. They certainly *are* calling for procedural justice, whereby victims play some sort of active role in proceedings.

The desire to extend to other people affected by an offence the right to participate in the process by which a community responds to that offence.

The immediate victim of an offence is not the only person other than the offender who is affected by that offence. Anybody with emotional ties to either victim and offender will be affected, as will any officials who are involved in the formal response to the offence.

The desire to find an alternative process to both the traditional sergeant's caution and the court process.

Many police are disillusioned with both of these responses to juvenile offending, but in the absence of viable alternatives, they will continue to put large numbers of young people before the courts. Police do this largely in order to send a message - to their colleagues and to victims - that the matter in question is considered to be serious.

The relative worth accorded these various arguments has varied from one jurisdiction to another, from one agency to another, and over time within particular jurisdictions and agencies. The two key variables determining the worth accorded these arguments are (1) the department that is advocating procedural change, and (2) the point in the system at which the debate is being conducted. Policy officers in an Attorney General's department, for instance, will emphasise a very different set of rationales to that emphasised by educational practitioners.

Similar variables appear to influence the dynamics of the conference process itself. Thus, conference dynamics seem to be influenced by the philosophy of the department responsible for convening the conference. A conference coordinated by police or school guidance officers is likely to differ from a conference coordinated by officials from departments of social welfare, Attorneys General, or court services. And, secondly, conference dynamics seem to be influenced by the level in the system at which a program of conferencing is developed. A model developed locally is likely to differ from one imposed by a central agency.

The development of the Wagga model offers an interesting case study in the ways in which reform agendas are influenced by the agency promoting reform and by the level in the system at which debate occurs. Thus, the debate that led to development and implementation of the Wagga model was initially prompted within the New South Wales Police Service at the senior management level. Members of the State Executive Group endorsed a debate about juvenile justice reform during the final year of John Avery's term as Commissioner, which ended in March 1991. A similar debate was conducted at a local level in several parts of the state. In the Wagga Wagga patrol, many members of the local community other than police were involved in this debate. The debates conducted within and between government agencies were concerned with issues very different from those raised in debates at the local community level. But the differences have been more profound than that. The central and local debates have not just been concerned with different issues; they represent different views of the world.

This issue is raised here because it relates to the nature of this evaluation. Debate at the level of State politics frequently assumes the model of a scientifically guided society, in which experts locate problems and suggest solutions. Debate at the local level, in contrast, is informed by what has been called the ideal of a "self-guiding society". According to this model, the opinions of experts are consulted, but the aim is to reach mutually satisfactory arrangements through broad political debate, rather than to have solutions imposed by a central technical elite.¹ Debate surrounding the model illustrates both of these tendencies. As the Wagga model has received publicity, so it has received criticism. The nature of this criticism will be considered in more detail in

¹ C. Lindblom *Inquiry and Change: The Troubled Attempt to Understand and Shape Society*, New Haven: Yale University Press, 1990

the body of the report. Nevertheless, it is worth summarising here the main concerns, many of which have been advanced by people unburdened by facts about the theory and practice of the Wagga model.

First, various central government agencies and interest groups are united in their confident assertion that police lack the skills or wisdom to coordinate conferences. Those arguing along these lines seem to share the assumption that conference coordination is synonymous with "mediation". The assumption is false. There are some fundamental differences between mediation and conferencing - as those trained mediators who are coordinating conferences in South Australia and Queensland have been quick to recognise.²

Second, some criminologists and politicians have argued that police cannot be trusted with the carriage of the process.³ The stated basis of their claim has generally been a concern that police should not play the role of "judge, jury and executioner". In reality, police in the Wagga model do not play any of these roles, let alone all three. It has been a disturbing feature of the debate surrounding conferencing that inappropriate clichés such as this have been allowed to pass uncriticised as informed comment.

A third line of criticism has come from agencies such as the New South Wales Bureau of Crime Statistics and Research. This line of criticism concerns efficiency. The Bureau has argued that more than two thirds of young people who are apprehended and placed before the courts by police do not reoffend.⁴ This is an empirical fact. On the basis of this fact, it has been suggested that the convening of family group conferences may be inefficient and is, therefore, an inappropriate way of dealing with first offenders. The Bureau's claim is not wrong, but the measure of efficiency on which the claim is based is a measure defined solely from the perspective of courts administration. It is an exceedingly narrow measure of efficiency. It is not concerned with the adequacy, in human terms, of the court's response to criminal behaviour. Nor does it focus on the subsequent behaviour of anyone other than the accused. It is a measure that overlooks the behaviour, let alone the welfare, of other people affected by the incident in question.

When criticism of a program is based on one department's definition of efficiency, that criticism has assumed a model of a scientifically-guided society. According to this model, a technocratic elite best knows society's problems and is best able to supply appropriate answers. But there is a strong alternative model, deriving from an alternative political tradition. According to the alternative model of a self-guiding society, those most affected by any new program must be consulted and involved. This alternative model assumes that it is not possible to measure the appropriateness of any program without consulting a representative sample of the people most directly affected by it. And in criminal justice, those most affected are victims, offenders, their respective communities of care, and the officials who deal with the case. The opinions of a representative sample from all of these groups are essential to any full evaluation

² See, for example, Tim Goodes, "Family Conferences" in *Mediation News* 2 (3) 1994

³ Examples of these approaches can be found in R. White & C. Alder, eds, *The Police and Young People in Australia*, Melbourne: Cambridge University Press, 1994, and in the latter half of Alder and Wundersitz.

⁴ "Doubts over Youth Punishment Scheme", *Sydney Morning Herald*, 14 April 1994

of a justice program. In line with that philosophy, this report offers findings from a long process of consultation with many members of the Wagga community.

The report should be seen as part of a wider process of evaluation. It analyses the conference process, it allows participants to speak for themselves, it gives rank-and-file police a voice, and it offers a theoretical model to explain key aspects of both process and model. In addition to this qualitative material, the report provides as comprehensive a quantitative analysis as has been possible, given the available statistics. The results of this quantitative analysis are useful, but we are aware of its limitations. Of these, two are most obvious: (1) statistical analysis is confined to one patrol, and (2) it is confined to measures of recidivism. The reasons are as follows:

First, the nature of the pilot program was such that policing in Wagga since the introduction of family group conferencing could be compared only with policing in Wagga prior to the introduction of the new program. Other variables could not be controlled for. To do so will require a larger experiment, with more control over the collection of statistics. Second, the satisfaction of participants with the conference, and the honouring of conference agreements, have not been independently measured across the entire patrol for the whole period. These measures may be considered to be just as important as rates of recidivism. There are strong indications that participants have actually been more satisfied with the conference process than with alternative procedures, and that almost all conference agreements have been partially or completely honoured. Rates in excess of ninety percent have been measured for both indicators.⁵ Again, however, a larger trial is needed to test these measures in a methodologically rigorous manner.

The current evaluation may be compared to a standard "phase two" trial by which any new drug or procedure in medicine is evaluated. In the medical model, a preliminary or "phase one" trial tests for "toxicity". It aims to determine, as far as is possible, that the procedure in question is at least no worse than the existing alternatives. (In this case, the New Zealand experience provided evidence that the conference procedure is not "toxic", and indeed, may be highly beneficial. In that sense, the New Zealand experience may be counted as a phase one trial and evaluation of family conferencing.) A phase two trial then seeks to further test and improve the procedure so that it works as well as possible - consistent with all available theory. Only then is the procedure subject to the third phase of testing involving a large, randomised trial. This report can be read as the summary of a phase two trial and evaluation.

The Wagga pilot program and evaluation was to have been followed by a larger, phase three trial of the program in New South Wales. It had been hoped that up to fifteen police patrols might be involved in that trial. People deemed eligible and willing to participate would be randomly assigned to either the old "treatment" - the court - or the new "treatment" - a family group conference. The funding to begin this trial in 1995 had been made available, rank-and-file police in the relevant patrols were willing to proceed, and the key researchers had designed the research methodology. Despite earlier expressions of commitment to program evaluation, however, senior police

⁵ The chief limitation here being that these figures were gathered only from conferences convened by Terry O'Connell

opposed this phase three evaluation. The Assistant Commissioner responsible for Education and Training, the Deputy Commissioner, and the Commissioner of Police refused to allow a large trial to proceed. Their official reasons remain unclear.

A phase three trial is now to proceed on a reduced scale in the Australian Capital Territory. The trial will focus on the results of intervention for three categories of offence. It will seek to compare the effects of intervention involving a court appearance with the effects of intervention involving a conference. Key indicators for the evaluation include the costs of both forms of intervention, the rate of victim participation, the overall rate of participant satisfaction, and the degree of procedural justice.⁶ These indicators are considered no less important than the more familiar indicator of the rate of subsequent offender reaprehension, which will also be measured in the Canberra trial.

The conferences that are to be evaluated in the Australian Capital Territory are convened by members of the Australian Federal Police. Their program is based on the Wagga model. Conference coordinators in Canberra have been trained according to the manual, *Convening Family Conferences*, a copy of which is provided as an appendix to this report. The manual has drawn on ideas arising from the research described in the report. Many of these ideas may be found in the body of the report, which is organised as follows:

The first chapter of the report describes the development and implementation of the model. It is concerned with the politics of policing - both inside and outside the service. It places the development of the model in the context of broader reform processes. In particular, it is concerned to explain how movements to divert cases from the formal justice system, and movements to acknowledge the rights of victims, have been accommodated within the rhetoric *and* the reality of community policing.

The second chapter presents excerpts from fourteen conferences convened by Terry O'Connell in Wagga during 1992 and 1993. In choosing conferences for transcription and analysis in the report, it was considered appropriate to avoid variations in the style of coordination, as this variable would have further complicated an already complex task. In all other respects, the conferences were chosen at random. Neither the senior researcher nor police attempted to nominate a "typical" conference or incident. The edited transcripts are reproduced here in order to convey to the reader some feeling for the format, dynamics and complexity of conferences. Of course, a good deal of the content of conferences is not conveyed in transcripts. Facial expressions, gestures, postures and vocal tone are not readily captured in print. Nevertheless, these less readily recorded factors in a conference may be as important as are those issues of conference content and format that the transcripts do manage to convey. (The sixth chapter, which deals with theory, considers these questions of communication further.)

The third chapter considers the opinions of conference participants. They were interviewed around six months after their conference, and were thus in a position to have reflected on its effects. Some of these participants had actually attended more

⁶ The latter indicator will be adapted from Tom Tyler's important work on procedural justice, *Why People Obey The Law*, New Haven: Yale, 1990

than one conference, and some offered, in addition to their personal perspective, a perspective informed by their profession - be that as teacher, youth worker, or lawyer. Some of those with dual personal and professional perspectives made very constructive suggestions - as did police who have been involved with the scheme. The voices of some of these police appear in the fourth chapter.

The fifth chapter offers a the detailed statistical analysis of official police interventions in Wagga Wagga. This chapter has been prepared by statistician Lubica Forsythe, whose exhaustive analysis covers all official police interventions involving young people in the Wagga patrol from 1990 through 1993. The essential findings of her statistical analysis are (1) that there has been none of the net widening predicted by critics of the scheme, and (2) that there appears to have been a significant reduction in the rate of reapprehension of those who - had they been apprehended prior to 1992 - would have been sent to court, but who, instead, attended a family conference. There are three major possible explanations for this reduced rate of reapprehension. The least plausible is that young people who attend family group conferences become more skilful at avoiding apprehension than do their counterparts who attend court. A second, somewhat more plausible explanation is that labelling theory is correct, and the mere fact of not having to appear before the court made this group of young people less likely to reoffend than their counterparts who attended court. More plausible than either of these explanations, however, is a third explanation couched in terms of the ability of family group conferences to meet the procedural, psychological and material needs of participants more fully than alternative procedures are able to do. This line of explanation suggests that the conference process is able to send a strong message condemning the behaviour, while nevertheless providing support not for both victim and perpetrator. This explanation suggests that the findings from Wagga Wagga are consistent with the theory of reintegrative shaming.⁷ That theory is discussed in the sixth chapter.

The sixth chapter of this report considers the broader practical and theoretical ramifications of the model in the light of conference transcripts, comments made by participants and other observers, and the statistical analysis. An important aspect of the Wagga model has been the opportunity for those involved in its development to discuss the model with colleagues in other agencies and jurisdictions. In the course of these discussions, various alterations to the model have been suggested, and some of these suggestions have been implemented. In addition, a great deal of work on an explanatory theory has been done. Discussions with colleagues in Australasia, North America, Southern Africa and Western Europe (including Britain) have contributed to the development of a plausible and reasonably comprehensive theory. This theory accounts for many aspects of the family group conference process itself, and also for other aspects of the model in which the process is employed.

The report concludes with a list of recommendations. These should be considered as part of a wider, ongoing debate. It is hoped that the report will be of interest to anyone concerned with the ways in which communities respond to harmful, illegal behaviour. It is also hoped that the report will better equip people to contribute to debates about

⁷ J. Braithwaite *Crime, Shame, and Reintegration*, Sydney: Cambridge University Press, 1989

the juvenile justice system. We hope to have described at least one way in which greater justice might be achieved within that system for all of those affected by crime.

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 1995.¹

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

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

society in the process.² 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

² 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.)³

- 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.⁴

³ 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.

⁴ 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.⁵ 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.

⁵ 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