

YOUTH AFFAIRS

Community Children's Conferences in NSW

In advance of the eagerly awaited White Paper on Juvenile Justice Reform, the NSW Attorney-General's Office has outlined the current thinking of officers of the Department of Juvenile Justice and the Attorney-General's Department.

Central to the proposals is a statutory pre-court offence resolution scheme based on a community children's conference (CCC). CCCs are seen as an intermediate step between police cautioning and court proceedings in the hierarchy of intervention. A conference will be held where the young person admits the offence and the police decide that a CCC is appropriate, taking into account the seriousness of the offence, the attitude of the victim, the age, attitude and antecedents of the offender. Young people who have committed sexual offences or indictable offences will not qualify. Children's Court magistrates would also have the power to refer appropriate cases to a conference before sentencing.

The police will refer young people to CCCs and will decide who should be invited to attend the conference. But the CCC would be arranged by a community justice centre which would choose as convener of the conference a person trained in mediation techniques and juvenile justice issues who would be expected to use his/her best endeavours to aid all participants to reach an agreement.

Present at the conference will be the young person, any parent or guardian and any other relative or close associate of the young person whom the police believe may be able to contribute usefully. An important person at the conference will be the victim of the offence who will be entitled to bring along someone to provide assistance and support.

Those present at the conference will be expected to come up with an agreement which may include an apology to or reparation for the victim, participation of the young person in a drug, alcohol or other program, or community service. Penalties should be no greater

than could be imposed by a court. It will be necessary for the police and the young person to agree before any outcome suggested by the conference will be effective.

The 1993 NSW Green Paper had recommended continuation of the community aid panels (CAPs) which are currently operating on a non-statutory basis in over 50 areas of New South Wales, but they urged that CAPs be widened to include participation by extended family members, victims and victim support people. In Wagga and elsewhere, the police have been running community conferences involving families and victims. They are lobbying strongly for any conferences to be convened and coordinated by them. The police and the other government departments involved see a central focus of the conferences as being the shaming of the young person.

Family group conferences in New Zealand the NSW Attorney-General and several senior officials have travelled to New Zealand to observe Family Group Conferences (FGCs) under the *Children, Young Persons and their Families Act*. Like their colleagues in Western Australia and South Australia they have come away impressed. Research has shown that almost all FGCs (95%) reach agreement and that families (85%) and young people (86%) report a high level of satisfaction with the decision reached. Police satisfaction with the decision is even higher (91%).

While the CCCs are likely to attract general approval there are some grounds for concern. The New Zealand FGCs are based on a 'family empowerment' model not on a 'mediation' or 'shaming' model. These are not just matters of emphasis – they go to the heart of the conference concept. The proposed emphasis on mediation may be difficult to support politically. The public may just not be willing to accept that a young person who burgles a house or steals a car should be sent off to a 'mediation conference'. A public statement this month by the Minister of Police that in future some young people

accused of stealing cars might be cautioned created such an uproar that the policy was reversed within hours. There is a danger that mediation will be presented as a 'soft option for young thugs'.

Under the New Zealand system it is now widely accepted that a conference is not a soft option. In meeting the victim the young person is confronted with the human consequences of the offending – an angry, distressed or anxious person who has suffered as a result of the young person's actions. And penalties imposed by families are often tougher than those traditionally given by the courts.

And is mediation an appropriate method of dealing with a young person's criminal offending? Mediation is traditionally seen as the resolution of conflict between identified people who are in conflict over a particular issue. But one can legitimately ask in relation to a CCC: who is in conflict and what are the issues?

There are further concerns that CCCs are seen as a form of diversion and restricted to less serious offences. In New Zealand, FGCs are seen not as a form of diversion but as an alternative method of dealing with young offenders. All offenders (except those accused of murder, manslaughter or minor traffic infringements) go before an FGC. And, under the NSW proposals, the police will have considerable power in deciding who will go before a CCC and who will be invited to be present at the conference. In New Zealand (and South Australia) these decisions are made by a Youth Justice Co-ordinator independent of the police.

Comments on these proposals are invited by the NSW Attorney-General's Department, GPO Box 6, Sydney NSW 2001, Fax (02) 233 1860.

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