

# ACT Region trial to stop repeat crime shows good interim results

By Janice Jarrett

*A scheme in the AFP's ACT Region to help prevent offenders from travelling further down a path of crime has shown good interim results in earning greater respect from its participants for police and the law.*

The program, called Diversionary Conferencing (DC) in ACT Region, began in January 1994. Known also in other police jurisdictions as family group conferencing and community conferencing, it brings together offenders and victims of the crime and requires offenders to take responsibility for their actions and make up for the harm they have caused.

Diversionary Conferencing is the subject of an Australian National University (ANU) evaluation study, the Reintegrative Shaming Experiments (RISE), which will provide information for law enforcement organisations nationally and internationally. The study is being led by senior American criminologist, Professor Lawrence Sherman, and ANU Professor John

Braithwaite, and managed by ANU researcher, Heather Strang.

The RISE research team, which released preliminary results of the study earlier this year said that 'noticeable improvements' had been shown from the innovative method which had been used in dealing with drink driving offenders and young property and violence offenders.

These early findings, published in a series of working papers, indicated the success on a number of measures of the diversionary conferencing alternative.

"In these conferences (which are convened by a police officer) offenders, their family and friends, and their victims or a community representative all actively participate," the papers said.

"Conferences focus on the crime rather than the criminal, drawing out the bad consequences of the crime and planning how best to make up for them.

"If the offender agrees to the group's proposals for restoration, the police then monitor



*Sergeant Doug Hair, left, and Constable Jeff Knight, of the Diversionary Conferencing Team in ACT Region.*

the offender's compliance in carrying out that plan. If offenders do not keep their promises, then these cases can be referred for prosecution, but nothing said during the conference can be used in a court.

"Professor Braithwaite predicts that this kind of shaming and restoration will be more successful at preventing repeat offending than current methods, where most courts ignore shame most of the time, maintaining the dignity of legal processes without unpacking the emotional forces resulting from the crime. These two approaches have never before been compared for their effectiveness at crime prevention."

The Diversionary Conferencing program team in ACT Region is led by Sergeant Doug Hair and includes Constables Jeff Knight, Bob Sobey, Marianne, and staff member Lindy Wilson. Sergeant Hair said that the idea grew from the Maori shaming concept in New Zealand and was first introduced at Wagga Wagga police station by NSW Police Service Senior Sergeant Terry O'Connell who also conducted the training for ACT Region when the program began at the initiative of then Assistant Commissioner Peter Dawson.

Senior Sergeant O'Connell, who now runs the NSW Police Conflict Assistance Group which deals with internal complaints and also continues to conduct DC training programs internationally, said that the RISE evaluation would be significant in validating conferencing for police throughout the world.

Preliminary results had given the conferencing

movement a tremendous boost in police organisations internationally, he said.

The conferencing method was being used by the Thames Valley Police in England and the Royal Canadian Mounted Police and was picking up momentum in other police services throughout Canada and various jurisdictions of the USA.

"Conferencing and restorative justice has the potential to redefine policing," Senior Sergeant O'Connell said. "It offers the only viable way of bringing about change to our formal criminal justice system."

### The ANU evaluation

The RISE working papers reported that, using the same controlled methods as medical trials, the evaluation being conducted by the ANU compared two groups of offenders who were the same in virtually all respects excepting one — whether their cases were handled in court or in a conference.

"These comparisons are made possible by the Canberra police deciding which method to use - either court or a diversionary conference - based upon an ANU recommendation in each case," the report said.

"The recommendation is blind to the characteristics of the offender, and based solely on a mathematical formula that gives all eligible offenders an equal chance to go to court or conference".

Funded by the Commonwealth Department of Health and Family Services and the Criminology Research Council, staff at the ANU Research

Constable Marianne delivering a lecture on diversionary conferencing to new recruits at the Australian Federal Police College, Barton.



School of Social Sciences had gathered two kinds of data. One was observations of what happens when drink driving or young-offender-cases go to court, and also when such cases were handled by a police-led conference. These observations measured the amount and kind of shame expressed during the proceedings, as well as other factors such as the emotional intensity of the participants. Observations had been completed of drink drivers appearing at 270 court cases and 237 conferences, and of young offenders appearing at 70 court cases and 63 conferences.

The other kind of information collected involved interviews with both offenders and victims in the study. These interviews measured how the participants felt while, and immediately after their case was being dealt with by court or conference. Preliminary results had been compiled from the first 548 offenders interviewed in the experiments (111 young offenders and 437 drink drivers, representing around three-quarters of all those eligible for interview). The young offenders included juveniles apprehended for property offences ranging from shoplifting to car theft, and offenders up to the age of 29 involved in violent crimes (excluding sexual assault and domestic violence).

The working papers said that information from the offenders' criminal records, which would show how many offences they were charged with in the two years after they went to court or conference, was still to be collected. The information, to which the ANU had tightly-controlled access under a formal agreement with the AFP approved by the Privacy Commissioner, would provide the ultimate test of whether the new approach to justice was more effective than court proceedings in preventing repeat offending.

"All the results reported here are statistically significant at the five-per-cent level, which means that there is a less than five-per-cent probability that the finding is due to chance," the report said.

"While the results could change when we finish collecting data on over 1,000 criminal cases, the findings so far show strong evidence for two conclusions. One is that diversionary conferences offer more of the procedural fairness that seems to matter to offenders. This conclusion may then explain the second: that diversionary conferences leave offenders feeling more respect for the police and the law.

#### **Preventing crime with fair procedures**

The papers continued that the differences between conferences and standard court proceedings reflected a new theory of crime prevention called 'procedural justice'. The more offenders felt that they had been treated fairly, the

*"Growing evidence in the US and Australia showed that offenders were less likely to re-offend when they felt that the last time they were caught, the legal system took the time to listen to them . . ."*

more likely they would be to obey the law in the future – even if they believed that the actual punishment was unjust. Growing evidence in the US and Australia showed that offenders were less likely to re-offend when they felt that the last time they were caught, the legal system took the time to listen to them; gave them a chance to correct any factual errors in their case; explained and protected their rights; treated them with equal rights to anyone else and; regarded them with respect and courtesy.

On all five of these measures, the preliminary offender interviews show conferences do better than court, the report said.

The following extract from the RISE working papers further outlines some of the findings of the trial so far.

#### **Time to listen**

For drink drivers the average court case in the study takes six minutes – the average diversionary conference takes 88 minutes. For young offenders, the average court case in the study takes 13 minutes – the average conference takes 71 minutes. Conferences are especially designed to get the offenders to talk in an informal way about what they have done, and to give them a full opportunity to explain all the circumstances. It is therefore not surprising that offenders are more likely to say they felt they had an opportunity to express their views about the case in the conferences than in the court appearances. There was a clear difference for all offenders. For the young offenders, 77 per cent said they felt they could express their views in conferences, compared to 54 per cent who were sent to court. For the drink driving offenders, the difference was 93 per cent of those who went to conferences and 73 per cent of those who went to court.

#### **Correcting errors of fact**

Offenders were asked also if they felt they could have corrected any errors of fact during the course of the proceedings. Among drink drivers, 79 per cent of those sent to a conference answered yes, compared to 54 per cent of court offenders. For juveniles, this difference was less

pronounced (and not statistically significant), but young offenders dealt with by conferencing remained more likely to feel this way than those who were sent to court.

### Explaining and protecting rights

Conferences made offenders feel they understood the proceedings somewhat better than court. Among drink drivers, 98 per cent of those who went to a conference said they understood what was going on in the process compared with 74 per cent of those sent to court; for juveniles it was 95 per cent compared with 80 per cent. There was also a big difference among drink drivers, although not so big among young offenders, in how much they agreed with the statement that the proceedings 'respected your rights': 63 per cent of the conference case offenders said their rights were respected 'a lot' compared with 38 per cent of the court case offenders.

### Equal rights

Whatever the reality may be, court case offenders were more likely to feel that they were disadvantaged in the proceedings due to 'age, income, sex, race or some other reason'. The biggest difference was for drink drivers, among whom 22 per cent of the court offenders claimed disadvantage compared to only 4 per cent of conference case offenders. For young offenders, the figures were 24 per cent for court and 16 per cent for conferences. Very few of those who felt disadvantaged linked the reason to gender or race; most of the reasons given were age or income levels.

### Respect and courtesy

There is good evidence that offenders perceive both Canberra courts and the conference alternatives as polite and respectful processes, with very high approval ratings in the offender interviews. The question on politeness showed no discernible difference between them, with both courts and conferences earning 80 per cent approval scores. When drink drivers were asked if they were treated 'with respect' however, 85 per cent of those who attended a conference answered yes compared to 63 per cent of those who went to court. Among young offenders, the scores were 75 per cent for conferences and 62 per cent for court.

### Shaping attitudes toward the law

These differences matter, and they are clearly linked to differences in how much respect offenders have for the law in the future. Offenders are much more likely to say that they have gained increased respect for the police after attending a conference than after a court appearance. Sixty per cent of drink drivers said

their respect for the police had increased after attending conferences, compared to only 25 per cent of those who attended court. For young offenders, the difference is 47 per cent for conferences and 18 per cent for court. This is accompanied by a big difference in offenders saying the police were fair to them during the proceedings. For drink drivers, 94 per cent of the conference cases compared to 57 per cent of the court cases said this; for young offenders it was 82 per cent for conference cases and 52 per cent for court.

Similar differences are seen in offender attitudes towards the justice system as a whole. Increased respect for the justice system was reported by 65 per cent of the drink drivers after conferences but only 20 per cent after court; for young offenders it was 42 per cent for conferences and 26 per cent for court. The differences are similar in attitudes towards the law. Increased respect was reported by 56 per cent of the drink drivers after conferences and 20 per cent after court; for young offenders the difference was 51 per cent for conference and 38 per cent for court.

The dark side of respect for law is the anger and bitterness some offenders feel after their case is closed. While the two groups of young offenders showed little difference on this point, the drink drivers were over three times more likely to be angry and bitter after court than after conference. While only 7 per cent of the offenders said they were angry or bitter following a diversionary conference, 24 per cent of the drink drivers dealt with by the courts said they were angry or bitter about the way they were treated. Such strong negative feelings do not bode well for future compliance with the law, an issue we will be studying closely over the next two years.

### Preventing crime

Whether these differences in procedures and attitudes will translate into less repeat offending is the big question. Because of the need to follow up on the effects of these proceedings, the ANU evaluation is still at least two years away from learning the answer to the crime prevention question. These preliminary results offer good reason to believe that conferences should reduce crime; at the very least, there are clear differences in how offenders are talking about their reactions in the first weeks after the case is closed. Whether that talk will translate into action is a question well worth investigating.

*Footnote: Reprinted from one of the RISE working papers titled 'Restorative Justice and Offenders' Respect for the Law', by Lawrence W. Sherman and Geoffrey C. Barnes.*

## Case Report: observing a City Station DC

By Kate Levings

The following case report is from a Diversionary Conference at City Police Station, conducted by Sergeant Brian Dunn, the City Station DC Coordinator.

When two young girls were caught stealing from a shop recently, the case was submitted to the RISE program and subsequently progressed to the diversionary conference scheme.

The DC team then arranged a meeting to be attended by the shop owner (the victim), the two offenders and four of their family members and friends, and community representative Joanne Rice - a Year 12 student at St Clare's College, Canberra, who became involved in diversionary conferencing after doing work experience with the AFP in 1996.

Joanne said she works part-time in a shop and was annoyed by theft. "At the end of the day [at work] there are so many empty packages from which items have been stolen," she said.

The shop owner entered the conference room, and appeared to have feelings of anger and hostility. Seating had been designated in advance by the conference facilitator, with offenders placed at either side of the victim.

At the outset of discussions, the victim expressed concerns that juveniles were often treated lightly. He had attended a conference previously and felt that too much of his time was taken considering the offenders' futures by avoiding a court appearance. He said also that he was dissatisfied about the theft being referred to as 'shoplifting' as the term effectively made theft appear less serious. Theft was theft regardless of the amount of property stolen, he said — a point which found consensus among the conference participants.

The facilitator asked the offenders how they had come to commit their crime. Both girls were clearly uncomfortable with discussing the incident, but one eventually admitted to feeling remorseful saying "... I shouldn't have done it because it's an offence".

Family and friends were asked for their thoughts and while most were apprehensive to speak negatively about the girls they agreed that



*City Station DC Coordinator, Sergeant Brian Dunn, facilitating a conference.*

the theft had been "stupid" and "disappointing".

The facilitator and community representative discussed the effects of such a crime and both girls showed an appreciation that the damage extended beyond themselves and the immediate victim. They were told of the anxiety felt by the shop assistant who caught them and the time that the incident had cost all involved.

The facilitator asked the girls how they thought they should repay their debt and made suggestions such as voluntary work, presenting talks at school to discourage others from stealing, and writing a letter of apology to the shop owner.

The family and friends of both girls discussed these ideas, eventually agreeing that a personal apology should be made to the victim, that they should complete four hours of voluntary work at the local hospital, six months helping out more at home, and adhering to tighter curfews.

As the girls apologised to the victim, he appeared to have a sense of forgiveness despite his initial doubts. He said that he felt sorry for the parents as they were the ones who suffered the most and that the girls should 'make-up' for their actions to them rather than to him.

The conference facilitator explained to the girls that any failure to participate fully in the agreed program of reparation would result in the matter being referred for prosecution action.