

# THE IMPLEMENTATION OF GROUP CONFERENCING IN JUVENILE JUSTICE IN VICTORIA

Mark Griffiths  
Anglicare (Victoria)

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*“I have always seen family group conferences as an invaluable tool for involving families and children in decisions about them ... not as some magical panacea to stop juvenile offending ... but rather as providing great benefits which can flow from the process itself.*

*First and foremost, family group conferences provide unique opportunities for families and, in the youth justice context, for victims to become truly involved in the consequent proceedings rather than being passive bystanders.”*

**MJA Brown**  
**Principal Youth Court Judge**  
**New Zealand**

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*From Family Group Conferences Perspectives on Policy and Practice*

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## **Introduction**

I would like to thank the Australian Institute of Criminology and the Victims Referral and Assistance Service for this opportunity to inform you of the Group Conferencing Program operated by Anglicare Victoria.

I propose in this presentation to:

- Outline the Victorian model of Group Conferencing;
- Summarize the results of Independent Evaluations conducted during the pilot stage of the program; and
- Examine some of the issues Anglicare is hoping to explore in terms of expanding the program.

But first, what is Anglicare Victoria? Why is it involved in operating the Group Conferencing Program?

Anglicare Victoria is the State’s largest non-government child, youth and family welfare agency, with more than 700 employees involved in the delivery of over a hundred separate community welfare programs across 40 service centres.

In 1998, more than 15 000 children, young people and families were assisted through our programs, including foster care, emergency relief, counselling, education, domestic violence support and crisis accommodation.

With an annual budget of approximately \$25m, Anglicare Victoria operates many programs across metropolitan Melbourne and in Gippsland targeted at high-risk young people, some of whom are involved in committing offences.

Anglicare was formed from the amalgamation of three Anglican Child Welfare Agencies. At various times, in their hundred year history, these agencies pioneered new approaches to dealing with juvenile crime.

In 1992, one of these Anglican Welfare Agencies received some private funding to pilot family Group Conferences in which families were given opportunities to develop their own plans relating to child protection concerns.

The success of this pilot generated interest in developing a pilot for Group Conferences relating to juvenile offenders.

The Group Conferencing Pilot Program has operated on short-term funding since April 1995 in various courts and locations. Currently, it operates from Moorabin in the southern suburbs of Melbourne servicing Dandenong, Frankston and Melbourne children's courts.

The next two years will see the program expand to service more metropolitan children's courts and some country locations.

Anglicare will be the launching pad in the community for the spread of Group Conferencing and restorative justice in Victoria.

But Anglicare cannot successfully operate this program without enormous assistance and support from many other agencies, service providers and the community.

Restorative Justice demands a high degree of community involvement and interagency co-operation.

In our program, interagency co-operation has been maintained at the policy, program development and direct service level through:

- Steering Committee representation of all key agencies (Children's Court, Legal Aid, DHS Juvenile Justice, Victoria Police and Department of Justice).
- Policy discussion and program development work with victim support agencies to develop *victim sensitive* program guidelines.
- Reaching out to other key service providers to encourage their involvement in the conferencing process on a case by case basis.

The last four years have been a struggle to keep the 'restorative justice' option alive in Victoria. We have almost sunk a few times. I was very much aware of two previous Victorian pilots in the Adult Courts that were shipwrecked before the real benefits could be obtained from their voyage of discovery.

Three people stand out as "lighthouse beacons" having protected and nurtured the program to this stage. These are:

**Tricia Harper** One of the architects of the current *Children and Young Persons Act 1989*.

**Jennifer Coate** Victoria's Senior Children's Court Magistrate.

**Elizabeth Cham** Then Manager Research Charitable Trusts, ANZ Trustee

No Victorian Program would exist in 1999 without the early support and encouragement of the William Buckland Foundation and Elizabeth Cham, and the two former mentioned individuals.

### **What Are the Key Elements of the Victorian Model of Group Conferencing?**

The Victorian model of Group Conferencing is a *presentence* model of Group Conferencing. A Children's Court Magistrate, may, in a case where a young person has pleaded guilty and/or been found guilty of an offence, adjourn sentencing for 4 to 6 weeks to allow a Group Conference to be held. Following the Group Conference, the young person returns to court and the Magistrate considers a report prepared by the Convenor on the process and outcomes of the Group Conference, before deciding upon an appropriate sentence. A successful conference will most likely result in diversion of the young person from a Supervisory Court Order.

The introduction of Group Conferencing into Victoria faced new challenges in a very different service environment. Key elements in the service environment and the pilot implementation process helped shape the resulting program.

### **Gaining Interagency Agreement on the "Target Group"**

One of the major objectives of the Victorian Pilot was to avoid net-widening and to offer the option as an alternative to a Supervised Order. The challenge to the pilot was to develop a model that was appropriate for young people facing very serious charges or numerous charges on first court appearance or on second or further court appearance and, in the view of the Magistrate, would otherwise receive a Supervised Order.

Many of these young people are at high risk of re-offending and have significant other problems that need attention if re-offending is to be avoided. At this level, the preparation time prior to the conference had to reflect the need to address these issues, if substantial gains could be achieved in the process.

The conference scheme has dealt with very significant offences such as armed robbery, arson causing \$250 000 damage and 'high risk' young offenders with multiple offences and drug-related problems. Acts of vandalism, and assaults on others are commonly dealt with through this process.

It is noteworthy that, young women are over-represented in the scheme as a percentage of the juvenile offending population. This reflects a greater willingness of their part to choose this option.

## **Gaining Referrals**

Victoria opted for a *voluntary non-mandated scheme* in which the young people have a say in choosing Group Conferencing as one alternative that can be put to the court. As a voluntary scheme, referrals depend upon legal practitioners and Magistrates suggesting that the young person and their families consider the option. When the alternative is to have the matter dealt with on the day at court and receive, at worst, a 12 month Community Supervision Order, it is quite remarkable that some young people choose to have a conference in which they might be confronted with the victim in front of their families and friends and must return to court after the conference to be finally sentenced by the Magistrate.

In the absence of any legislative provision, “*court-level credibility*” has been an important factor in extending the pilot program. The Group Conferences have been successful enough for the legal representatives and Magistrates to continue making referrals and want the option to continue.

## **Family Decision-Making Model**

The Victorian model is based upon the *family decision making model* in which the young person, family members and their support group are empowered to deal with the young person’s offending behaviour and prevent further offending. The Convenor identifies the potential participants for the conference in consultation with the young person and the family. The Convenor assesses and prepares all participants for the conference, including the possibility for the victim’s involvement and ensures that all participants are adequately briefed. The conference aims to give the young person the opportunity to assume responsibility for the offences they have committed, in a supportive environment where their rights are protected. Support and advice are provided from all those involved and assistance is provided to enable the family and young person to develop their own plan.

## **Children’s Court Mandate**

Because the Victorian model is based within the Children’s Court mandate, Conference Plans also address the *prevention of further offending* by the young person.

## **Reaching Agreement on Overall Aim**

The Steering Committee developed a clear statement of overall aim that reflects the three objectives of the process. The overall aim of Group Conferencing is to address the offending behaviour of young people, and help them avoid further or more serious offending by:

- **Strengthening the young person’s family and community supports**
- **Making amends to the victim where appropriate**
- **Holding the young person accountable for the impact of his/her offending behaviour**

## **How Does Group Conferencing Work in Victoria?**

The conference or meeting, which is ordered by the Children’s Court Magistrate, brings together a number of people: the young person; his/her family and significant others; his/her legal representative; the victim(s) or victim representative; the police and other community members such as a teacher or youth worker.

Pre-conference preparation and all arrangements are made by the Conference Convenor, from Anglicare Victoria. At the conference, people discuss the offence and the factors which may have contributed to it, and look at ways in which they can help the young person avoid committing further offences.

The conference process operates in a very similar way to other models – fully exploring the impact of the offence on people and sharing stories.

Factors contributing to offending are woven into these stories and ways in which the young person can make amends are suggested.

Private time for the young person and family to consider their response to these suggestions is provided.

The conference reconvenes to consider the young persons and family's plan and establish whether the group can reach agreement of all outcomes.

There is further negotiation on the plan. When this process is finalised, the legal representative is given private time with the young person to establish that their client fully comprehends the agreement.

Whatever the outcome, the court receives a report from the Convenor on both the process and outcome of the conference and pre-conference activities.

This report is crucial in the court fully comprehending the conferencing process from beginning to end.

Following the court sentencing of the young person the Convenor may also facilitate the implementation of the plan by assisting the family and young person in reparation arrangements, apology letter deliveries, and other program support activities.

A 'key person' is often nominated in the plan to support and encourage the young person in the implementation of the plan.

### **Time and Location of Conferences**

In Victoria, conferences are typically held in neutral community locations such as schools, neighbourhood houses, and service agencies selected by the Convenor to encourage the maximum participation of the community of interest.

Similarly, the interests of victims, and the offender's family and support network largely determine the time of the conference, many of which are held out of normal office hours. They normally take 2.5 to 3 hours to complete.

### **What are the Evaluation Results from the Four Years of Pilot Program?**

There have been three independent evaluations conducted. Two have been publicly released by the School of Social Work, University of Melbourne in May 1997 and December 1997.

The latest evaluation was funded by the Department of Human Services and tendered out. The Evaluation Report has been completed and is due for publication in the near future.

The evaluations have been comprehensive using a range of methodologies including:

- Observation of Group Conferences by the researchers.
- Tracking the outcomes for young people, victims and family who have been involved in a Group Conference for 12 months post-conference.
- Comparing recidivism with a similar probation group, over a 12 month period, post sentence.
- Obtaining qualitative data from participants in the conferences including the young people, parents, other community members, victims, police and legal representatives and Convenors.
- Interviewing key stakeholders from other relevant services, the legal system and government departments.
- Undertaking a literature review.
- Analysing the costing through an activity costing framework and comparing this with the cost of probation.
- Focus groups held with young people who have been through the program.

### **Does It Stop Re-offending?**

In relation to re-offending patterns, there is no substantial difference evident as to whether the young person attended a conference or received a period of probation. The comparison undertaken of twelve months IBR checks on Group Conferencing versus probation participants indicates similar rates of re-offending, however there is a higher likelihood that young people on probation will go on to receive further supervisory orders. The lower sentencing outcomes and lighter re-offending pattern results in a significant diversion of some young offenders from the statutory supervision system.

Decisions about the viability of Group Conferencing as a new alternative, or the choice of Group Conferencing over probation, need to be made on other criteria as well as the ability to divert some young offenders from juvenile justice supervision.

### **Does It Divert Young People From Juvenile Justice?**

The Group Conference Report provides the court with an agreed outcome plan to deal with the offences and assist the young person to prevent further offending. The court decides upon the appropriate sentencing order, taking into account the outcomes of the Group Conference. The results of the sentencing orders imposed by the courts indicate:

1. 77% of young persons were placed on a good behaviour bond of either 12 months or less than 12 months duration. In most of these cases, the court chose to impose a special condition on the bond that the *“young person implement the Group Conference outcome plan as stated in the attached report”*. This figure represents a substantial immediate diversion for these young persons from further intrusion into the juvenile justice system.

2. Thirteen percent of young persons were placed on a Probation Order following the Group Conference. Most of these orders were made in the first funding period of the pilot and may reflect concern by the court at continued offending during the adjournment period; or a consensus, by those present at the Group Conference, that probation as a form of statutory case management is an appropriate response in this case to the offending behaviour.
3. Four percent overall of young persons received a further deferral of sentence by the court for a period not exceeding four months to enable the court to monitor the implementation of the Group Conference Outcome Plan before determining a final sentence outcome. Over the life of the program this option was chosen in more cases indicating an increasing interest in the court using this option.
4. Four percent and 2% of young persons were placed on a Youth Supervision Order (YSO) and Youth Attendance Order (YAO) respectively following a Group Conference. The most likely reason for this outcome was the continued offending of the young person during the period of the adjournment prior to the conference being held, and before their return to court. In addition, there were referrals of young persons held on remand who were facing a likely custodial sentence, and the imposition of an intensive community based order such as a YSO or YAO could be considered a diversion from custodial supervision in these circumstances.

The results of the comparison study of a hundred probationers indicates that 37% received further sentencing orders for re-offending compared to 21% of the Group Conferencing group.

### **Do Outcome Plans Get Implemented?**

The implementation of Conference Plans by the young person and their support network was evaluated. The results show that, over the life of the pilot project, the implementation rates of Conference Plans increased. The results indicate that the number of Conference Plans fully or partially implemented increased from 77% in the first phase of the pilot to 90% in the last few years of the program.

### **Do Families and Victims Participate in Conferencing?**

People like the process. The results of the evaluation concur with many overseas evaluations that suggest families can feel more empowered and supported in their parenting capacities, as a result of participating in a Group Conference with their child. The Convenors identify the commitment of the family to become actively involved in the process as a key ingredient for the achievement of successful outcomes. It is also seen as imperative that family members accept responsibility for their young person and become engaged in the Conference Plan and its implementation.

Victim involvement has continued to increase with victims being represented in 80% of all conferences held. Most victims expressed satisfaction with their participation and benefited from the opportunity to explain to the offender how the offence impacted upon their lives. Victim representation and support are also vital services in an effective conferencing program. The '*generosity of spirit*' of victims of crime highlighted by Judge Brown and others has been evident throughout the four years of the pilot.

In the follow-up contact which was made with victims, most expressed satisfaction with their participation, and again expressed the sentiments that it helped them “*get off their chests*” the impact of the crime and its consequences.

Suggestions from victims for ways in which the young person can make amends are often incorporated in outcome plans. The personal nature of these plans and direct contact between victim and offender result in greater motivation to implement reparation.

### **Does the Community Participate in Conferencing?**

One of the most pleasing results has been the level of commitment shown by school teachers, youth workers, employers and recreational volunteers to the process.

A feature of the Victorian model has been the appointment of a key person to help support and encourage the young person in implementing the Outcome Plan.

An average of 4.9 professionals and other support services were involved in conferences operated by the pilot. These people included the compulsory attendance of the police informant and the young person’s legal representative and other persons such as school teachers, youth workers, and other community professionals who were already connected to the young person or their family in some meaningful manner. Many of these people have chosen to become the ‘key person’ to support the young person in the post-conference period.

### **Why Do People Like Conferencing?**

A summary of the community stakeholder’s experience is that Group Conferencing:

- Brings groups of people together to find a solution.
- Diverts young people from the higher tariff orders and statutory supervision.
- Gives Magistrates another tool/option.
- Keeps young offenders lower in the hierarchy of the system.
- Holds young offenders accountable for the real impact of offending.
- Involves victims, and is a potential healing process for victims, including reparation.
- Has not drawn in more young people into Juvenile Justice (net-widened)
- Everyone gets a say, including police informants in the sentencing process.

### **Cost?**

The Evaluation shows that the costs of conferencing are comparable to the current sentencing dispositions.

### **What are the Issues Anglicare is Hoping to Explore in Terms of Expanding the Program?**

The immediate challenges facing the program are the development of a team of skilled Group Conference Facilitators; ensuring the program is accessible to courts and highly responsive to young offenders, their families and to the victims and their families and supporters, including victim support agencies as key service providers to victims.

These goals can only be achieved if the following issues are addressed:

- Funding that allows full viability and sustainability.
- Development of a mainstream model.
- Legislation that supports the pre-sentence, voluntary nature of the program.
- Development of an Education/Information Strategy.

## **Conclusion**

This paper has outlined the unique features of the Victorian model of Group Conferencing operating in Juvenile Justice. Results from three Independent Evaluations conducted over five years are summarized. Key issues for further expanding the program are highlighted.

Major benefits to the Victorian Juvenile Justice System from Group Conferencing are:

- The constructive involvement of those most affected by offending in the sentencing process: young offenders, victims, family and community.
- Empowerment in decision-making of those least involved in current sentencing, the family of the young offender and the victims of offences.
- Its location in the non-government sector with a major agency that has a long history of engagement with the disadvantaged in the community.
- The maintenance of strong interagency co-operation from key service providers – an essential requirement for restorative justice projects.
- Avoidance of net-widening by positioning conferencing as a pre-sentence option for offenders whom would otherwise receive state intervention.
- Extensive evaluation of the first hundred clients has identified factors most conducive to successful outcomes.
- Creation of a new voluntary choice option for offenders willing to accept responsibility for the harm of their offending.
- Diversion from further juvenile justice intervention of offenders.
- Additional benefits in reparation to victims and implementation of action plans.

The Group Conferencing Program is not an easy option. It challenges all those involved to look beyond their own perspective and interests.

I believe this will be its greatest contribution to our justice system.

It has the potential to really engage those people most affected by offending in the court sentencing process.

Many great benefits can flow from this process itself.