REACHING MEANINGFUL OUTCOMES IN FAMILY CONFERENCING

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Introduction

South Australia is proudly approaching its tenth year of family conferencing in juvenile justice. Throughout this time, thousands of conferences have been convened by Youth Justice Coordinators, resulting in a wealth of experience in conferencing practice in the Family Conference Team. Over the last ten years, the Family Conference Team has also participated in major pieces of research and study of family conferencing work in Australia. These experiences have been utilised as a mechanism to reflect on and inform practice.

In ten years of practice, the Family Conference Team has convened conferences for young people who have admitted to their offending, and the victims of these offences, resulting in outcomes including apologies, compensation and community service, as per the legislative base of the Young Offenders Act, SA, 1993. These outcomes are meaningful in their own right, and often address the needs of victims and the wider community, including the justice system. However at times it can be challenging to reach outcomes that are meaningful to all participants, including young people and their families. Such outcomes must also adequately address those issues identified as having contributed to the young person’s offending behaviour. This calls for a greater level of creativity, understanding and acknowledgement of the need for appropriate levels of resourcing, and an ability to balance the needs of all participants during the conference process to ensure the conference outcome is meaningful to all parties.

This paper will aim to explore the question of “What constitutes a meaningful conference outcome?” and has been written to compliment the presentation given at Australian Institute of Criminology and NSW Department of Juvenile Justice Conference in Sydney 2003. This is not intended to be an academic paper and does not examine the statistical data that has been gained from the various studies of family conferencing in South Australia. Nor does this paper explore the topic of recidivism, which is an important one, but can at times draw the focus away from restorative conferencing processes and outcomes.

This paper does however reflect upon the practice of the Family Conference Team today, ten years after its inception, to draw together some of what the team has learnt over time, from practice and the young people, their families, victims, the community and the Police who have been involved in this process. It considers the legislative base for the work, the principles of restorative justice, family conference processes, and some of the dilemmas and strategies for working within this context, proposing a practitioner’s insight into family conference outcomes, and our efforts to make them meaningful for all participants.

Making Meaning

As individuals, we make meaning of our lives and experiences in our own unique way. We give meanings to our experiences frequently as we live our lives, for example, we have an experience of some sort and then attribute meaning to it (Sween, 1999). The meaning that we make is informed by numerous things, including our previous experiences, our relationships, our culture, our abilities, our struggles, our work, our interests, our achievements, our failures etc (Morgan, 2000).

For an experience to be meaningful, it must have a meaning for an individual. An experience that is “meaningful” for an individual can be related to an experience that is comprehensible, understandable, indicative, significant, suggestive and/or purposeful for that person at that time.

The idea of a ‘meaningful outcome’ from a family conference is therefore quite a subjective concept. Depending on your role in the conference, and your experience of the process, your perception of what a meaningful outcome may be will vary, in addition to the other things that inform how we make meaning. However we work towards restorative conference procedures and outcomes, as we know that restorative experiences, amongst other things, are meaningful for people.
The skill of convening family conferences requires the Youth Justice Coordinator to possess the ability to balance the needs of all conference participants during the conference process, including young people, their families, victims, their supporters, community representatives and police, and their perceptions of justice, fairness, purpose and meaning. The conference itself balances the needs of all participants in determining an outcome. Such an approach serves to promote the process, and promote outcomes that ensure greater satisfaction for participants, as well as foster a sense of restorativeness, where restorative factors are present.

About Family Conferences in South Australia

Family conferencing is positioned in the realm of a diversionary program in the South Australian Juvenile Justice system, but practice is aligned with that of restorative justice processes. The general object of the *Young Offenders Act, SA, 1993* is “to secure for youths who offend against the criminal law, the care, correction and guidance necessary for their development into responsible and useful members of the community and the proper realisation of their potential”. The legislation, arguably, does not clearly articulate where the priority should lie, with diversion or restoration, particularly where these issues are in competition. When examining the notion of restorative justice, it is interesting to note that, at least legislatively, there is no account to be taken of a victim’s views or wishes as to whether a matter will be referred for family conference. However in the absence of this, it is important to note that the South Australian Police (SAPOL) have developed standing orders to formalise consideration of victim’s views and wishes. In addition, a family conference can proceed in South Australia in the absence of a victim and a conference decision can conceivably be validly made without the consensus of a victim who is present.

The Family Conference Team has attempted to marry the concepts of diversion and restoration in its work in the South Australian Juvenile Justice system. Whilst these two concepts can work in partnership, at times they also conflict. For a restorative justice process to be effective there must be a clear articulation, understanding and support of the values of restorative justice by all parties involved and a commitment to them (Morris & Maxwell, 2001). The values of restorative justice underpin the family conference process, aiming to make the conference itself memorable, to give young people and victims the opportunity to have a voice and be involved in decision-making, and to feel that the harm done has been, or will be restored (Morris & Maxwell, 2001).

It is an ongoing dilemma for the Family Conference Team that restorative aspects of the family conference process are not clearly articulated in the *Young Offenders Act, SA, 1993*. However practice in the Family Conference Team over the past ten years has demonstrated that the principles of restorative justice strongly underpin all family conference work.

The *Young Offenders Act, SA, 1993* also directs that “a family conference should act if possible by consensus of the youth and such of the persons invited to attend the conference… a decision by a family conference is not however to be regarded as validly made unless the youth and the representative of the Commissioner of Police concur in the decision.” As such, it is the role of the Youth Justice Coordinator to attempt to negotiate a decision which all participants consider a fair, reasonable and achievable outcome, and is acceptable to both the young person and police officer present, in addition to addressing all of the objectives of the *Young Offender’s Act, 1993*. The *Young Offenders Act, SA, 1993* also outlines the powers of the family conference that provides for a young person to agree, in the form of a written undertaking to do (or not do) specific things within a timeframe agreed upon by participants. Young people are required to comply with their undertakings in order to finalise the file as a family conference matter, and avoid the potential for further prosecution. The legislation includes a number of categories that can be considered for potential conference outcomes.
Apologies - In 2002, 43.2% of Family Conferences Include an Apology as an Undertaking

The Young Offenders Act, SA, 1993 states that a family conference may require a young person to enter into an undertaking to apologise to the victim of an offence and that such an apology must be made in the presence of an adult person approved of by the family conference or a Youth Justice Coordinator.

Meaningful apologies are critical to repairing harm and restoring peace to any relationship, and are a very symbolic act within our society. A sincere apology offered by a young person to a victim at a family conference can be quite a ceremonial act and can promote the restorative nature of the process, making a real difference for victims. Likewise, a victim’s acceptance of an apology can make a real difference for a young person. When such apologies occur face to face during a family conference, people speak directly to each other, in an honest way, which is indicative of a meaningful experience for participants. The potential for this to occur is reliant on the existence of restorative factors being present.

An opportunity for people to receive apologies, or for people to offer apologies is not common practice within traditional justice systems. However research and practice clearly indicates that victims typically seek sincere apologies, offers of reparation, demonstrations of responsibility, and promises of no further offending. Such opportunities offer the possibility of reconciliation, and possibly forgiveness, which provides potential healing for the victim (Estrada-Hollenbeck, 1994).

The opportunity for a young person to express feelings of remorse, take responsibility for their actions, offer further reparation, or even make a statement about their future desires, is a valuable one for young people who committed an offence against a victim. Often young people have reservations about making an apology to a victim, for fear of it not being considered adequate or sincere. Receiving a victim’s acceptance of an apology, and possibly their forgiveness promotes reconciliation (Estrada-Hollenbeck, 1994), and assists the young person in their reintegration into society.

It is common practice for family conferences in South Australia to frequently result in young people making verbal apologies during the conference proceedings. Such apologies may include fairly brief accounts of remorse, and at times more comprehensive expressions of reparation and responsibility, depending on the nature of the offence, the young person’s abilities, and the dynamics within the conference. Often this happens spontaneously during the conference. While this itself does not constitute an undertaking if it is done at the time of the conference, it can be formally acknowledged on the written conference outcome that the apology occurred, and was accepted. This written acknowledgement serves to honour the act of the apology, and the restoration it brings to victim and young person, and not minimise its purpose in light of any other undertakings that may be made. Such acknowledgements however are not statistically recorded.

However there are many instances when a verbal apology cannot or does not occur at a family conference. In some cases, an undertaking may be made for the young person to make a personal apology to a victim some time after the conference, which would be supervised by an agreed person. Such an arrangement clearly fits within the powers of the legislation.

However there are other times when a victim is not present at the conference and is unwilling or unable to meet with a young person outside of the meeting. On these occasions young people often express their desire to write a letter to the victim, and victims often express their desire to receive such a letter. In other instances, victims who have received a verbal apology also request that the young person provide a written apology that includes the young person’s reflection on what they
have learnt from the conference process. As such, undertakings involving young people writing a letter to the victim and forwarding it to the Youth Justice Coordinator to send on have become a common and well-received practice within the Family Conference Team.

Following a recent Court ruling that under the *Young Offender’s Act, SA, 1993*, an apology must be a verbal one, such letters are now referred to as “letters of regret”, to avoid falling outside of the legislative powers for a family conference. These therefore are not recorded statistically as an apology. However when being discussed in the conference context, they are more often than not still referred to as “letters of apology”, as participants understand the concept of an apology, and referring to a letter in this way is more meaningful to young people and victims.

**Compensation – In 2002, 24.4% of Family Conferences Include Compensation as an Undertaking**

The *Young Offenders Act, SA, 1993* makes provision for a young person to enter into an undertaking to pay compensation to the victim of the offence. So far as the circumstances of the individual case allow, compensation and restitution should be provided, where appropriate, for victims of offences committed by young people. Such compensation is paid to and administered by the Courts Administration Authority. Compensation from a family conference can be paid under a time payment instalment plan, or by a final date, provided this occurs within a twelve month period, from the date of the conference. There is no minimum or maximum limit to the amount of financial compensation that can be sought by a victim, and agreed to at a family conference.

Restitution to victims, in the form of financial compensation, can serve two main purposes. Firstly, it can assist in alleviating economic losses related to property damage incurred by the victim, and secondly, it can provide opportunity for emotional healing for victims, because it provides them with a voice in the criminal justice system (Ben-Shahar & Harel, 1999).

For many victims, the economic effect of the offending that has occurred against them has had a far-reaching and detrimental impact on their quality of life. Where compensation is sought the reason typically relates to out of pocket costs incurred by the victim. Most often this relates to costs of repairs to resecure property, insurance excess costs, or costs of uninsured damages and losses.

For young people who have committed an offence that has resulted in financial losses to a victim, taking responsibility for their actions may equate to the need or desire to make financial restitution. Unfortunately due to their social circumstances this cannot always be achieved, however young people attending family conferences frequently identify the payment of financial compensation as necessary, and as a means of making practical reparation, and pathway to their reintegration into the community.

When victims are requesting compensation from a young person, quotes or invoices are required as a way of ensuring that the amount of compensation being sought is directly related to the offending, and is an accurate representation of the loss, not a means to further penalise a young person. A victim’s request for compensation is typically raised during the conference when possible outcomes are being canvassed, regardless of whether or not the victim is in attendance. Other considerations that must be made at that time are the assessment of the young person’s means and ability to pay, taking into account that in South Australia parents of young people who offend cannot be held responsible or liable for damages or costs associated with the offending. South Australian law determines that no defendant can be ordered to pay compensation beyond his or her means. Where joint offenders are guilty of an offence they are jointly and severally liable for compensation. In practice, this means that co-offenders referred to family conference may enter into undertakings which are not identical in the amount of compensation required to be paid, or in fact that compensation be paid at all.
The process for assessing a young person’s capacity to comply with an undertaking to pay compensation is based on their circumstances at the time of the conference. This assessment must take into consideration the potential impact of making such a payment on the young person’s social circumstances. Although primary consideration must be given to promoting restitution by the young person for losses incurred to a victim, it is also necessary to be diligent in ensuring that the young person is not adversely affected by entering into an undertaking to pay compensation. Typically this involves the young person and their family discussing the issue and clearly stating whether the young person is in a position to comply with such an undertaking. In practice, it is often a key element of discussion that the young person is unable to make full restitution and this may mean that the victim’s requests and needs cannot be fully met.

Balancing a victim’s request and needs with the reality of a young person’s circumstances is a difficult component of a family conference discussion. In situations where a conference has identified that a young person is unable to make any financial restitution, victims can, and have been known to feel dissatisfied with the conference outcome. However in practice the vast majority of victims acknowledge the young person’s circumstances, and are accepting of the impact of pursuing unachievable undertakings. In some cases, victims take the very generous position of not wishing to pursue compensation due to this and other reasons. Often the initial disappointment of a victim who is unable to be financially compensated is minimised by the positive experience of having a voice in the proceedings and decision-making process, and exploring alternative outcomes. For victims, active participation in proceedings can equate to a higher satisfaction rate, and result in a more meaningful experience (Wemmers, 1994).

**Community Service – In 2002, 20.8 % of Family Conferences Include Community Service as an Undertaking**

Under the *Young Offenders Act, SA, 1993*, a family conference may require a young person to enter into an undertaking to carry out a specific period (not exceeding 300 hours) of community service. As with all undertakings, the maximum period of time available for completion of any community service work is 12 months from the date of the conference. The legislation also allows for educational or training course to be utilised as community service.

The notion of community service can be interpreted in different ways. Generally speaking, community service can be defined as a contribution to the welfare and wellbeing of a community. Community service is seen by some members of our society as a demonstration of our civic responsibility and an obligation to be met, rather than a punishment to be avoided (Byron & Ehlrich, 1992).

However often young people and victims attending a family conference will perceive community service as a punitive and humiliating response to offending behaviour. Young people, victims and parents often expect community service to form part of a family conference outcome, as a way of punishing a young person for their wrongdoing. This belief seems to have stemmed from the notion of community service becoming more aligned with Court outcomes and sentencing, rather than as a civic duty.

The current legislation does not make distinction between community service for the general community or directly for the victim, as victim based work is incorporated in the definition. However in practice, it has become evident that community service can be utilised as a means of direct reparation to a victim, who may also suggest possible placements in organisations know to them. Victims and young people alike have identified community service for victims as a tangible demonstration of restorativeness. In situations where this is not able to occur, victims, young
people and their families, can still acknowledge the restorative value of a young person performing such work in the community. Community service can be seen as an opportunity for young people to give something back to the community by righting a wrongdoing, whilst strengthening their connection to that community, increasing their competencies and building their strengths.

In the ten years that the Family Conference Team has been operating, there has been a slight decrease variation in the frequency of community service being utilised as an undertaking, and the number of hours deemed appropriate. In the early years of practice it became apparent that the task of locating, establishing and monitoring community services placements was a significant drain on the resources of the Family Conference Team. Unlike Court-ordered community service, where direct referrals are made to a supervising agency, Youth Justice Coordinators do not have access to that established system, and as such, were required to carry out all community service related tasks themselves.

Whilst there seems to be strong support in the community for community service as an outcome for juvenile offending, community agencies are not always willing or able to take on the responsibilities associated with community service placements for young people. Due to these constraints, the lack of available placements, and significant duty of care considerations, there was a trend towards utilising community service as a family conference outcome only in situations where it was considered absolutely necessary, or significant to the circumstances of the case. This also aligns with changes in police expectations of conference outcomes over time, and their confidence in utilising alternative outcomes.

In those situations where community service is deemed appropriate, it is a constant challenge for Youth Justice Coordinators to attempt to change participants’ perceptions, to acknowledge the potential benefits of community service in the restorative sense. In doing so, the Family Conference Team attempt to make any community service relate to the victim and crime where possible, and something the young person has shown some interest in doing.

The Family Conference Team initiated a review of community service arrangements in 2002, which identified a number of issues to be addressed. Through the appointment of a Community Service Worker six months ago, the Team has now been able to develop stronger links with community based agencies to ensure the proper placement of young people in safe and accountable service agencies which are monitored and evaluated on a regular basis. A mechanism for improving safety and minimising the risk for young people performing community service work has also been implemented. The appointment of a Community Service Worker has enable greater opportunity for community service to be utilised as positive and meaningful outcome for young people, victims and the community.

**Other Outcomes – In 2002, 78.6% of Family Conferences Include an Undertaking Categorised as “Other”**

Provision exists in the *Young Offenders Act, SA, 1993* for a family conference to require a young person to do “anything else” that may be considered appropriate in the circumstances of the case. Given that family conference outcomes are different to traditional justice outcomes, and feature undertakings which are always very specific to the circumstances of the case, the community, the victim’s needs, or the needs of the young person, this section of the legislation provides for a category of undertakings that may not be contemplated by more traditional justice responses, or fall within those categories mentioned above, and listed explicitly in the legislation. In the vast majority of conferences held there will be an undertaking which comes under this category. This category provides the widest scope to customise outcomes of family conferences, in order to meet the needs of and therefore attempt to provide tangible meaning for all parties involved.
At times a family conference may result in an outcome such as a young person making an
undertaking to prepare a project, brochure, essay, poster or piece of artwork about a certain issue
related to their offending, the impact on the victim, or the community. Such work is often given to
victims, or displayed by young people to help others learn from their mistakes, and can be tailored
to suit a young person’s needs or skill base. For example a young person who has very poor
literacy may be unable to write a letter to a victim or complete any written work, but may be able to
show, in a much more meaningful way, what they have learnt or demonstrate how they feel through
a visual art form. At times a young person may express a great interest or skill in a particular
artistic domain, and can create a wonderful and meaningful offering for a victim.

At times, a young person’s undertaking under this category may be something focussed on the needs
of the community, such as making a donation to a charity or even supporting the local sporting team
at a game. Such outcomes are focussed on linking young people back to the community.

Family conferences frequently result in young people being referred to outside agencies, both
government and non-government, as a part of an undertaking, in an attempt to try to meet the young
person’s needs, and at times, the needs of the victim. A Youth Justice Coordinator will make the
appropriate phone calls and forward a written referral to the agreed agency or a suitable agency
following the conference. This typically involves young people making a promise to “make and
attend” an appointment with an agency that may assist them with issues identified during the course
of the family conference. Such issues may include those that have contributed to the young
person’s offending behaviour, such as anger, mental or physical health issues, or drug and alcohol
use or misuse.

Alternatively there may be other issues that the young person may need to address in order to be
able to move forward with their life, such accessing education, training or employment, in a
specialist service which meets their needs. At times a young person may agree to making and
attending more than one appointment, and other participants often encourage this. Such outcomes
reflect the commitment of the family conference process to assist young people to get back on track,
and to address concerns addressed by victims about the young person. This aspect of family
conference outcomes often means a lot to victims, family members, and young people themselves.
The family conference frequently provides opportunities for services to become involved with
young people as a means of addressing issues critical to their safe passage through adolescence and
reintegration into the fabric of their community.

Unlike outcomes in Court where orders are made and young people are connected to a key agency
(namely Family and Youth Services) to supervise the Court outcome, the Family Conference Team
does not have this capacity. Family and Youth Services do not accept referrals from the Family
Conference Team unless the young person already has a case manager within this system, and even
in those cases, will usually only supervise specific undertakings rather than ensuring all services
sought are connected and coordinated.

As such, the Family Conference Team, over ten years of practice, has been required to develop
relationships with a number of key agencies that readily accept referrals as part of a family
conference outcome. This is often difficult as service availability varies greatly between urban and
rural areas, and most services are subject to funding. Such agencies provide an expedient service,
and are prepared to provide written advice indicating whether or not a young person has complied
with their undertaking to attend their appointment/s. Some youth services do not readily provide
this information on the grounds of confidentiality, despite it being required for the finalisation of a
young person’s file, and despite young people giving their informed consent during the conference
process that particular information (in regard to their attendance only) is required.
Those agencies that have provided a continued service to the Family Conference Team in South Australia and readily accept referrals include: the Drug and Alcohol Service Council (DASC); Job Placement Employment and Training (JPET) programs; the Second Story Youth Health Service; and the Youth Education Centre, Flexicentre, which operates on the POEMS model (Partnership Outreach Education Model). Without such agencies accepting referrals and maintaining ongoing relationships with the Family Conference Team, it would not be possible for these sorts of undertakings to be considered as part of a meaningful family conference outcome.

**Sexual Offences Referred to Family Conference**

In South Australia, conferencing is seen as a positive and constructive process in a number of ways, and there is such a level of confidence from Police and the Youth Court that referrals for Family Conference are made for the full range of offences (which young people have admitted to) from simple street offences and larceny matters, through to assault occasioning actual bodily harm, threaten life, robbery, and arson, and referrals are now also regularly received for sexual offences.

Sexual offences referred to family conference can include: rape, attempted rape, indecent assault, unlawful sexual intercourse, attempted unlawful sexual intercourse, incest, and other sexual offences such as indecent behaviour and gross indecency. The Family Conference Team acknowledges that it has been challenging to both Police and the Youth Court to refer such matters to family conference in the face of debate and fear of using the process for these types of offences. The Team acknowledges that through those referrals, there have been numerous positive responses for participants of the process and significant contribution to conference practice.

A recent study of the Family Conference Team’s work in relation to sexual offence matters suggests that conferences have the potential to offer victims more satisfactory justice responses than Court. In regard to what young people who have committed sexual offences do for victims, the community and themselves following a conference, it appears that conferences “outperform” Court (Daly et al, 2003).

Family conferences for sexual offence matters tend to be very intense conferences for all participants. This is due to the extreme impact the offence has usually had on the victim and their family, and the consequences that may have occurred for the young person and their family following disclosure of the offending (Doig & Wallace, 1999). Noting the extreme impact on victims of sexual offences, and the intensity of conference proceedings for such matters, in no way minimises the effects felt by victims of other offences of any kind. As with any family conference, no further harm should ensue, and the Youth Justice Coordinator must ensure that the victim is not revictimised by the proceedings.

As with family conferences for other matters, conferences for sexual offences aim to establish a framework for the offending behaviour that clearly promotes participants’ understanding of the legal context. In addition to this the moral considerations and context is also highlighted, with regard to the abusive nature and misuse of power inherent in this type of offence. Young people who have committed sexual offences often struggle with these concepts, for many reasons, which can hinder their capacity to take full responsibility for the offending behaviour, and understand the impact of their actions on the victim. As such it is critical that the Youth Justice Coordinator ensures that young people and victims are fully prepared for the conference process.

Much of the intensive preparation work with young people referred for sexual offences occurs prior to the conference, through intervention by Mary Street Adolescent Sexual Abuse Prevention Program (Mary Street). The Family Conference Team is fortunate to have developed a long-
standing and positive relationship with this service, in order to provide specialist intervention to family conference clients, with regard to preparation, consultation, and ongoing therapeutic involvement. The focus of the Mary Street service is to: assist young people to stop sexual abuse and sexual harassment; make restitution to help heal the harm caused by such acts; assist young people to respect others and develop appropriate relationships; build self respect and confidence; and to make sexuality respectful and positive. They also work within a framework of fairness, respect and safety, to assist young people to take full responsibility for their actions.

Clearly in matters such as these there is an overwhelming need to ensure the outcome of the conference is meaningful and restorative. In these situations the outcome must have meaning and purpose for all parties. For the young person there is the need to have confidence that the intervention will help them deal with behaviours and urges deemed inappropriate within our society. For victims, and victim representatives and supporters, the outcomes must address issues of personal safety and reinforce that these behaviours will not reoccur.

By far the most common response to developing an outcome will involve intervention through Mary Street for a period of 12 months or until deemed appropriate by the counsellor. Standard wording for such an undertaking has been agreed between the Family Conference Team and Mary Street to ensure consistent outcomes, which meet the needs of young people referred to the service from a family conference. As mentioned above, the majority of young people referred to conference for sexual offences are already engaged with Mary Street, as a standard police response to these offences. The very existence of the Mary Street program in South Australia, and their approach to their work is of enormous benefit to young people, victims, families, referring agencies and the community.

Apologies are also often part of a family conference outcome for sexual offences. Sometimes these occur during the family conference, although Mary Street encourage young people to work with them on this issue, to ensure that apologies (being verbal or written) occur only when the young person fully understands the implications and ramifications of their behaviour on all parties involved, and is ready to apologise, and the counsellor is confident about this. This in turn ensures that such an apology is a genuine expression of remorse, and has meaning for the victim and their family. In addition to these sorts of outcomes there may be scope to utilise other undertakings such as community service or other program involvement, for family conferences involving sexual offences.

**Formal Caution**

There are times when a family conference does not result in a young person making any written undertakings. On these occasions, the family conference itself has typically been a powerful act in demonstrating the young person’s remorse and responsibility for their actions and has also provided a platform for the victim to discuss the impact of the offence, and hear what the young person has to say about what happened. The very nature of the family conference process, and the fact that it provides for these sorts of opportunities and restorative comments, gestures and acts during proceedings cannot be underestimated. The family conference process provides the key ingredients for a meaningful outcome, in whatever form that may take.

At times the value of the very process that brings the conference to discussing potential outcomes is overlooked, and the focus is put more on the actual family conference outcome. More often than not, such a focus is on whether or not conference outcomes are considered adequate, or whether outcomes have led to a reduction in recidivism. The reality in practice is that the process itself can at times be so powerful that participants agree that no further action is required. At times a young person may have made an apology, paid compensation or done something else prior to the conference that can also be taken into consideration, and often forms part of the decision that no further action needs to be taken.
The *Young Offenders Act, SA, 1993* provides the family conference with the power to administer a formal caution, or warning, against further offending. Therefore conferences that do not result in an undertaking are recorded as a formal caution outcome. The paperwork generated for this outcome can include acknowledgements about acts that have occurred prior to or during the conference, but do not require any further action.

The notion of the formal caution as a conference outcome is typically not promoted during conference proceedings, due to the fact that Police have the opportunity to resolve matters by way of formal caution as an alternative to referral to family conference. In addition, more often than not, young people, their families and victims will promote the need for certain undertakings which they feel are necessary to repair the harm of the offending. However these perceptions will often change during conference proceedings, and in situations where no other outcomes are being sought, due respect is shown to the family conference process by resolving the matter by way of formal caution.

A formal caution outcome is typically proposed by the police officer present at the conference, in acknowledgement of what has already occurred to resolve the matter for all parties concerned. These situations reinforce the need for family conference to be restorative and for the outcomes to have meaning for participants, rather than merely a procedural act and outcome.

**Achievability and Compliance – In 2002, 89.2% of Family Conferences Undertakings Were Complied With**

An imperative part of all family conferences is determining the achievability of outcomes for young people. Determining whether any undertakings a young person may make at a conference are achievable for them is crucial to ensuring compliance and resolution for the young person, and reparation and restoration for the victim, thus providing greater potential for meaningful conference experiences and outcomes. If a family conference outcome is unachievable for a young person, it will not positive meaning, nor will it have a truly restorative impact, even if the conference was a positive and meaningful experience for participants. During conferences young people often respond with a sense of relief when they realise the conference undertaking will be achievable for them, and result in repairing the harm done. Victims also acknowledge the desire for undertakings to be achieved in order to attain restoration and some sort of resolution of the matter.

Part of the role of the Youth Justice Coordinator is to also monitor family conference undertakings, and record compliance. When a young person complies with their family conference undertakings it provides for the practical closure of the file by the Youth Justice Coordinator, and a sense of personal closure to both the young person and the victim. This is the final meaningful act in the formal family conference process.

Over the last ten years of practice, the Family Conference Team has been able to reflect on conference outcomes in terms of what undertakings are typically achievable or unachievable for young people. When young people have not complied with a particular family conference undertaking, the Family Conference Team can consider this a learning opportunity for future conferences, and a reminder of the need for care to be taken in this area, whilst still balancing the need for the conference to be restorative and result in meaningful outcomes for all parties.

**Conclusion**

Very recently, terms of reference have been put to the South Australian parliament, proposing a review of the state’s juvenile justice system, including the legislation. The Family Conference Team and the South Australian juvenile justice system now has the benefit of reflecting on ten years
of practice to inform any future changes which may be made to the *Young Offenders Act, SA, 1993*. This is an ideal opportunity to continue to reflect and learn from the lessons of the past, and acknowledge how family conferencing in South Australia has evolved to its current state. Despite the challenges and dilemmas associated with the current legislation, the Family Conference Team respects the framework in which this work is done in South Australia, and continues to ensure that the commitment to the family conference process and restorative principles are not compromised.

The Family Conference Team will also continue to promote the need to focus on the integrity of the conference process. Whilst not minimising the important of issues such as conference outcomes and recidivism, without the presence of restorative factors and a restorative process these sorts of issues cannot be adequately, and meaningfully, examined and discussed. The Family Conference Team will continue its previous commitment to participating in and contributing to research in the restorative and juvenile justice arenas, as a valuable tool for reflecting on, informing, and improving practice.

In summary, it is evident that utilising restorative justice principles and processes in all levels of legislation, policy, procedure and process, provides the basis for more meaningful conference experiences and outcomes for young people, their families, victims, their supporters, and the wider community.
References


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