Port Lincoln
Aboriginal Conference Pilot

Jayne Marshall
Introduction

- The Port Lincoln Aboriginal Conference Pilot commenced in September 2007
  - first conference held in November 2007
- 16 conferences up to June 2009
- The Conference Model combines elements of:
  - the Aboriginal Court method; and
  - restorative justice conferencing
Objectives

To involve members of the Aboriginal Community and victims in a conference:

• so that the defendant is aware of the harm done as a result of his or her offending;
• to encourage contrition and reparation to remedy harm resulting from offending;
• to provide a restorative opportunity to victims;
• to give the community more confidence in the sentencing process; and
• to provide the Magistrate with better information to facilitate appropriate and constructive sentencing options.
Objectives

To involve members of the Aboriginal Community and victims in a conference:

- so that the defendant is aware of the harm done as a result of his or her offending;
- to encourage contrition and reparation to remedy harm resulting from offending;
- to provide a restorative opportunity to victims;
- to give the community more confidence in the sentencing process; and
- to provide the Magistrate with better information to facilitate appropriate and constructive sentencing options.
Objectives

To involve members of the Aboriginal Community and victims in a conference:

• so that the defendant is aware of the harm done as a result of his or her offending;
• to encourage contrition and reparation to remedy harm resulting from offending;
• to provide a restorative opportunity to victims;
• to give the community more confidence in the sentencing process; and
• to provide the Magistrate with better information to facilitate appropriate and constructive sentencing options.
Eligibility

- open to adult Aboriginal defendants who:
  - reside in Port Lincoln
  - have family connections to the community
  - plead guilty

- offences heard within Magistrates court
- preference to offences involving a victim
- no limits on offending history of defendant
  - suitability assessed at time of referral
Process – referral and planning

• Referral:
  Entering of a guilty plea by defendant and request to have court case referred to a conference.

• Adjournment:
  Magistrate adjourns the case for sentencing to the following court circuit to allow a minimum of one month for the Conference to be convened.

• Planning:
  Conferencing Coordinator and Aboriginal Justice Coordinator contact all parties, including support services, to explain and set up the process.
Process - Conference

- attended by Police Prosecutor, defendant(s), victim(s), their supporters and respected members of the local Aboriginal Community
  - Magistrate does not attend the Conference
- conducted outside the courtroom (1.5 to 2 hours)
- discussion facilitated by the Conferencing Coordinator and an Aboriginal Justice Coordinator re:
  - the offending behaviour;
  - factors influencing the behaviour and how it could be avoided;
  - acknowledging harm done; and
  - possible restorative /therapeutic actions
- completion of a conference report for Magistrate
• sentence hearing generally held within two days of Conference during Port Lincoln court week

• hearing is conducted as an Aboriginal Court, with:
  • all parties seated at the same level
  • attendance and involvement of Elders
  • direct interaction between Magistrate, defendant and Elders regarding the Conference report
  • victims invited to attend

• Conference Coordinator advises victims of sentence and provides opportunity to debrief – victim may be referred to Victim Support Services for ongoing assistance.
Evaluation

• A brief review of the pilot was conducted by OCSAR during May and June 2008.

• Methodology involved: observation of two conferences and one sentencing hearing; and interviews with Conference staff, Magistrates, Police Prosecutor, Elders, Defence Counsel, three victims and one defendant.

• At the time of the review – seven conferences involving eight defendants (4 male/4 female, aged 23 to 30 years, mean 25 years)

• Full report is available at www.ocsar.sa.gov.au under Publications and Statistics
Evaluation results

• Very positive response from stakeholders

• Unanimous praise for the organisation and conduct of conferences and sentencing hearings

• Agreement that the Pilot had achieved 5 of the 6 stated objectives
  • involvement of the Aboriginal community and victims,
  • facilitating the defendant’s victim awareness,
  • encouraging contrition and reparation,
  • providing victims with a restorative opportunity,
  • provision of better information to Magistrates to facilitate more constructive sentencing

• Agreement that the objective of improving confidence in the sentencing process had not yet been achieved, due to the small scale of the pilot
Evaluation results - benefits

- Respect shown to Elders during the conference will increase respect for Elders within the Aboriginal Community
- Conferencing builds bridges between Police and the Aboriginal Community
- Provides a safe environment for the victim to confront the defendant
- Conferencing likely to be a more effective deterrent than traditional court as:
  - process more relevant to Aboriginal defendants,
  - opportunity to recognise and address underlying issues of offending
  - prospect of immediate Elder disapproval more effective than future breach of bond
Evaluation results - issues

- Considerable time required to plan, conduct, report on the conferences and to conduct effective sentencing hearings
- Mixed views regarding the type of offenders and offences that should be referred to a conference
- Perception that conferencing is a ‘soft’ option
- Need to support Elders with formal training in court procedures
- Need to be sensitive to victim’s experiences and not to be perceived as ‘making excuses’ for the defendant
- Ensuring support for victims before, during and after Conference
- Need for follow-up to ensure that defendants comply with restorative promises
Conclusion

Overall:

• positive response from all stakeholders

• general agreement that the Pilot had achieved all but one of the stated aims

• support for the continuation of Aboriginal conferencing in Port Lincoln and extension to other locations

• Full report is available at www.ocsar.sa.gov.au under Publications and Statistics
Port Lincoln
Aboriginal Conference Pilot

Jayne Marshall