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COMMENTARY OF FAMILIES AND FRIENDS FOR DRUG LAW REFORM on the ISSUES PAPER, *RESTORATIVE JUSTICE FOR THE ACT*

I. introduction

1. Families and Friends for Drug Law Reform is grateful for the opportunity to comment on the issues paper, *Restorative Justice for the ACT* (Dept. of Justice & Community Safety, October 2003) prepared by the Restorative Justice Sub-Committee of the ACT Sentencing Review Committee. Families and Friends for Drug Law Reform is critical of the proposal because it does not address the most potent risk factors of crime of greatest community concern in the ACT – substance dependence and mental illness associated with substance dependence. The dynamic of re-integrative shaming that is of the essence of restorative justice has potential to motivate large change on the part of individuals. This potential needs to be harnessed by integrating conferencing with what is known about tackling risk factors associated with offending behaviour. Families and Friends for Drug Law Reform believes that the restorative justice conferencing as proposed in the issues paper is a squandered opportunity and cannot be justified in terms of the pressing need to resource effective measures in the ACT to reduce crime. The proposal needs to be substantially reworked in order to be worthwhile.

2. This commentary firstly describes the failure of the issues paper to identify the most potent risk factors in crime. It then goes on to identify in general terms the four factors that conferencing should be designed around in order to make it relevant to the situation in the ACT. The next section provides detailed comments on the aspects of the issues paper of relevance to those general factors. The conclusion summarises the comments of Families and Friends for Drug Law Reform about what needs to be done and why.

II. The issues paper does not address the most potent risk factors of crime

3. The restorative justice proposal does not address the most potent risk factors linked to the crimes of greatest concern to the community: property crime and crime against the person. These factors are substance abuse – particularly of illicit drugs – and mental disorders associated with substance abuse. Their potency is illustrated by the characteristics of the most intractable cases - those who end up in prison. Last year, Dr Richard Matthews, Chief Executive Officer of the NSW Corrective Health Service, told a House Representative Committee that:

on reception in NSW correctional institutions 90.1% of women have some form of *mental disorder* as do 78.2% of men;

on *substance abuse*, compared to 2.8% in the general community, 74.5% of women on reception are dependent on or abuse alcohol or another drug. For men the figures are 7.1% and 63.3%.

4. The latest report of ACT Policing "identified drug dependence as a major contributor to the ACT criminal environment. Offenders reliant on illegal drugs are often perpetrators of property crime which is necessary to fund the purchase of illicit drugs" (p. 23).

A. Drug abuse

5. The restorative justice issues paper contains only three fleeting references and one substantive reference to drugs or substance abuse. In a section on offence eligibility it mentions that the "ACT has a separate drug diversion program" (p. 20). It later refers to "drug offences" being offences excluded from conferencing in the ACT as are "certain drug offences" in NSW (p. 36). In essence the paper states that conferencing is unsuitable for those with a problem of substance dependency:

"The Sub-committee . . . expressed concern that offenders in the 'too hard' basket such as those with strong substance dependencies may be 'fobbed off' and/or referred to a conference too soon and thus set up for failure. Court-mandated treatments may need to precede such an encounter" (§17.6, p. 23).

The sub-committee may have been concerned but it did not seek to formulate the restorative justice proposal so as to cover the "too hard" cases where substance abuse is involved.

1. Drug abuse and crime not being adequately addressed in the ACT

6. There would be a case for excluding those abusing substances from conferencing if there were adequate existing correctional strategies dealing with the criminality of those with that risk factor but there is not. There are schemes to divert drug users from the mainstream criminal process but these are utilised in significant numbers only in connection with minor drug offences (notably the SCON system for cannabis offences) that lack a victim in the conventional sense.

7. For crimes against property and the person, diversion schemes are used only scantily. The 2002-03 ACT Policing report states that a mere eleven offenders were recommended for participation in the Police Early Intervention and Drug Diversion Program (p. 75).

"Since the introduction of the Diversion Program, eight males and two females have participated in the scheme for treatment in relation to their use of either cannabis, heroin or amphetamine type substances" (p. 30).

The impact of this scheme is obviously minuscule. Even the target of 40 participants is a drop in the bucket.

8. The 2002-03 report of the Director of Public Prosecutions refers to apparent lack of needed action regarding a different drug programme:

"Reforms that are still on the agenda, but which have not much progressed include . . . the reform of the Drugs of Dependence Treatment Referral Program. A report on the latter seems to have sunk without trace. There are still issues to be addressed here and perhaps the work of Drug Courts, now multiplying throughout Australia, has lessons for the Territory" (p. 4).

9. The link between drug abuse and crime is not being adequately addressed in the ACT. The restorative justice proposal as it is framed is an irrelevance to the most pressing crime problems of the territory.

2. Compulsory treatment

10. The one substantial reference to substance dependency in the issues paper mentions that "Court-mandated treatments may need to precede" conferencing (§17.6). The assumption that court-mandated treatments, principally coercive treatment, are either appropriate or effective is questionable for a number of reasons:

Families and Friends for Drug Law Reform understands that dependency on illicit drugs is the only form of the many dependencies affecting people in the community for which compulsory treatment is seriously contemplated;

compulsory treatment is inconsistent with the ACT Government's stated position that illicit drug dependency constitutes a health issue;

addiction to illicit drugs like other addictions is a chronic relapsing condition that is never likely to be "fixed" by any particular bout of treatment; it is a condition that must be managed over time. For that to occur for the required time under a compulsory regime cannot be contemplated in any other than a gulag regime;

compulsory treatment has a poor record of success;

years of experience in correctional and other institutions here and around the world show that it is next to impossible to keep illicit drugs out.

B. Mental illness associated with drug abuse

11. At least substance abuse is mentioned in the restorative justice paper. Mental illness is not. There is little doubt that "the coexistence of substance abuse with a mental disorder increases the level of the association with offending behaviour." The consequences of this association are magnified by big increases in "the frequency with which those with mental disorder are resorting to the abuse of drugs and alcohol." The lack of reference to mental illness in the issues paper is a further indication of the irrelevance of the restorative justice proposal, as formulated, to the main community concerns about crime.

III. General comments: How to make restorative justice conferencing relevant to the ACT?

12. The insights of restorative justice hold out the hope for big improvements in the correctional process and in reducing crime generally. If conferencing based on those insights is to be more than a boutique process of marginal relevance, that process will need to be designed to take into account the social context and characteristics of substance abuse and mental illness. Restorative justice conferencing should be designed around:

- (a) the range of risk factors that make re-offending likely;
- (b) the shame and stigma affecting both the offenders and their family that is commonly associated with substance abuse and mental illness;
- (c) a strengthening of the family and other community support for the offender; and
- (d) a holistic response involving relevant government and other services and not just police, courts and corrections.

Each of these is relevant for the following reasons.

A. Risk factors

13. An accumulation of known risk factors is commonly found in the life of an offender. Risk factors for many social problems are very often shared. Thus risk factors behind mental illness or the severity and frequency of mental illness are overwhelmingly shared with problems such as school drop out, suicide, drug abuse, crime and poverty. They tend to be cumulative so, snow ball-like, the cumulation of them can grow as their host moves through life. The particular known potency for crime of substance abuse and mental illness associated with substance abuse will be likely to involve people who have an accumulation of many other risk factors. Even so, that is far from always the case where substance abuse is involved. This is because of the inherent attractiveness of illicit substances. Among the young people who become dependent on illicit drugs are a significant minority who have only a small accumulation of risk factors. Many within the normal range of personality types are attracted to try illicit substances which are so available and a minority of these move on to become dependent. In other words illicit substances are a particularly enticing and slippery snake in the life time game of snakes and ladders.

14. What is the relevance of this to the design of an effective restorative justice process? There will need to be a capacity to deal with substance abuse and mental illness on the part of

the offender. It should also have a capacity to deal with a range of other, still active risk factors. These will often be risk factors associated with the family of the offender. These family factors can undermine the outcome of the process because it will normally look to the family in order to support the offender in fulfilling any agreement reached in the conference. Many offenders will come from high risk family backgrounds which themselves will have a history of substance abuse, mental illness or both. A capacity needs to be at hand in conferencing to deal with that.

15. In all these matters the issues paper is lacking. It deliberately excises substance dependence and ignores mental illness. It touches on the appropriate course in referring to the need to strengthen the offender's family group and to provide developmental support services but does not embed the lessons of our knowledge of early intervention into the design of the process.

B. Shame and stigma

16. Restorative justice relies for its effectiveness on the notion of re-integrative shaming. The offender faced at a human level with the victim of his or her actions is brought to a sense of remorse. The offender's action was outside the community. It is crucial that the path be there for the offender to regain his or her place in the community. If, in spite of the remorse, the door remains closed, the shame that can be transformative will switch to shame that reinforces alienation and destructiveness. A very powerful human emotion is thus at play in diversionary conferencing.

17. To guard against a derailment to disaster the conferencing process must provide for the dimensions of destructive and disempowering shame that are around. The degree of shame by the user and family surrounding substance abuse is one of the main obstacles to improvement. This is evident in story after story related at the *National Families & Community Conference on Drugs* in 2000. The family is likely to be the first ripped off by the addicted user. The user will be ashamed about that as well as his or her other actions. The family itself may well be paralysed by shame out of a sense of real or imagined responsibility for their member's predicament. The more the family actually contributed to risk factors behind the situation of the offender, the greater that shame is likely to be. Moreover, as well as the formal victim and offender, these and others involved in the conferencing may have other victim or offender roles. For example, the offender may him or herself be the victim of criminal action by dealers and others standing over him or her.

18. The disempowering effect of shame associated with mental disorders is also notorious. All this shame joins the shame normally associated with the criminal process and the offence. The environment surrounding a potential conference involving substance abuse and mental illness is likely to be flooded with shame on the part of the offender's family and not just the offender. The submission of Families and Friends for Drug Law Reform to the ACT Assembly inquiry into support for the family of people in detention describes in greater detail the debilitating effect of shame so often associated with substance abuse and mental illness. Unless the resources and capacity are available in the conference to turn this to a constructive, restorative end, the process will be destructive or at best ineffective.

19. The issues paper seems to give no thought to these highly relevant aspects of stigma and shame at play in real world situations.

C. Community orientation

20. An element of the conferencing is to join in the process those representing the circle of support of the victim and the offender. If the magic of reintegrative shaming is to work it is particularly important that the process embrace those crucial to the reintegration of the offender into the community – a community that the victim is understood to form part. It is thus of the utmost importance that the net of those involved directly or indirectly in the conferencing process be widely cast. The focus on reintegrating the offender into the community that is at the heart of restorative justice is the reverse of the traditional approach of corrections which is to separate the offender from the community. The need for this re-orientation was described in the submission of Families and Friends for Drug Law Reform to the Assembly inquiry into the support of people in detention.

21. As reflected in much of the language and recommended processes, the issues paper is put together with very much a traditional police, court and corrections approach in mind. Conferencing will be of limited benefit unless it follows through fully the implications of the reintegrative shaming dynamic and what we know about addressing risk factors.

D. Holistic approach

22. Unless addressed, active risk factors will play the part of crocodiles hauling back into the swamp those offenders motivated by reintegrative shaming to scramble back out into the community. Thus, integral to the success of the actual conferencing and ensuring that its effects do not quickly evaporate, is the integration of support services to address major risk factors impacting on the offender. The police and others associated with corrections alone are not well placed to do this. While police may, for example, have an important role given the existence of a crime and victim, relevant services, governmental and others, should be engaged in the process. To do so simply applies the knowledge that the most successful outcomes to interventions arise from addressing a range of relevant risk factors and not just one or two in isolation.

23. Integration of appropriate services will probably be facilitated in many cases by the fact that the offender and his or her situation are likely to be known to service providers long before the offence giving rise to the conferencing. The challenge is to bring that support base into the conferencing but to do so in a way that does not professionalise the exercise so as to remove the sense of ownership by the offender of his or her actions that hurt the victim. There may be in some cases a ready-made forum within which a conferencing can be conducted.

24. The integration and co-ordination of services is integral to a holistic approach. The voluntary nature of the conferencing process should minimise potential difficulties surrounding the exchange of information and the ethics of professional conduct co-operating to a law enforcement end.

25. For all these reasons a more flexible approach than the issues paper contemplates is needed to enable conferencing to be linked closely to other services and forums associated with the life of the offender. It would be useful to view conferencing as something that can be bolted on to other services rather than be a stand alone process undertaken in isolation from other things.

IV. Detailed comments on the restorative justice issues paper

A. Fundamental restorative justice principles – strengthening family and provision of support (rec. 3, §6.8)

26. Families and Friends for Drug Law Reform wholeheartedly endorses the notion of empowerment, strengthening the offender's family group and supporting offenders to enable them to overcome their offending behaviour and become fully autonomous individuals. (The autonomy, it should be stressed, is not that of an individual in isolation from society but of an individual that is a part of the community.)

27. These virtues or conditions are exactly the ones that are gravely lacking in the overwhelming number of cases where drug dependence and mental illness are involved. In some cases families feel so alienated by the behaviour of a member that they have cut themselves off from him or her. Almost all dependent drug users and their families will feel disempowered and guilty by all that has happened and by the apparent incapacity of "the system" to help.

28. Support that is needed is not just a band-aid to better fit those involved to grit and bear the stressful situation in which they find themselves but support that addresses operative risk factors and holds out the real prospect of positive and sustainable change.

B. Referral points along the criminal justice continuum (rec. 9, §10)

29. Families and Friends for Drug Law Reform strongly supports the recommendation that opportunities for referral to conferencing should be available along the entire criminal justice continuum (rec. 9, para. 10.6). Its availability is consistent with many recommendations directed to strengthening community links that Families and Friends for Drug Law Reform itself has made in its submission of September 2003 on support for the families of those in detention. It goes without saying that, at each stage, the procedures applying restorative justice should be framed so as to maximise the accessibility of the process to offenders who have a problem with drug dependence or a mental illness.

C. Acceptance of responsibility (§11)

30. Families and Friends for Drug Law Reform is concerned that requiring, as rec. 10 (para. 11.5) does, "acceptance of responsibility" as the key criterion for eligibility will exclude many offenders (and thus many victims) from conferencing who would benefit from that process.

31. To require acceptance of responsibility as a pre-condition confuses a key outcome with a ground for eligibility. What is important is the potential of the offender as a result of the conferencing to bring him or herself to the point of acceptance of responsibility. It is wrong in principle to require acceptance of responsibility as a pre-condition. A key of re-integrative shaming is that at the end those involved in the process have moved from where they were before. To require an offender to show "contrition" and "remorse" as rec. 20 concerning suitability criteria explicitly states and rec. 10 implies, superimposes on conferencing the traditional and baleful mindset that sees the task of corrections imposing an appropriate mindset on the offender. A lasting and healthy change can be achieved only if the offender

perceives that he or she has a real choice and makes it. The pre-eminent outcome of conferencing should be the re-integration into the community of a participating member, not the usual punishment traditionally associated with the correctional process.

32. For these reasons Families and Friends for Drug Law Reform believes that the New Zealand approach of "decline to deny" comes closer to the mark. Effectively such a criterion casts the net of eligible offenders much wider leaving the question of the issue of who should actually undergo conferencing subject to finer judgements of personality and circumstance in which the risk factors associated with offender will have a bearing.

33. While Families and Friends for Drug Law Reform criticises the test of acceptance of responsibility it would be obvious that we welcome the recommendation that admission of guilt should not be the criterion. That involves not only accepting responsibility in a moral sense but also the technical question of law and fact that arises whenever anyone is charged with an offence.

D. Admissibility of evidence (§13)

34. Families and Friends for Drug Law Reform endorses the recommendation that evidence heard in a conference should not be admissible in any subsequent proceedings concerning guilt (rec. 14, §13.4). The discussion paper does not explicitly address aspects that the guidelines for conferencing should do:

(a) the distinct possibility that evidence may come to light in a conference about the involvement of an offender in a crime that is not the offence that prompted the conference; and

(b) information coming to light in the conference that, followed up, would enable the prosecution to strengthen the case against the offender.

E. Suitability criteria (§17)

35. The personal characteristics of the offender (as well as the victim) are, of course, highly relevant (rec. 20, §17.7). Families and Friends for Drug Law Reform is concerned, though, that the discussion of these characteristics in §17.2 indicates a very traditional legal approach. The statement that suitability of the offender for conferencing should "consider questions such as contrition, degree or lack of premeditation, likelihood of re-offending and the level of violence involved and harm caused" is the sort of language found in criminal law text books and cases. It does not reflect the revolutionary essence of restorative justice as a "non-legalistic" approach to crime. Families and Friends for Drug Law Reform urges that language about suitability be used that has regard to the offender and risk factors associated with him or her.

36. Families and Friends for Drug Law Reform agrees that the assessment of suitability "requires careful judgments based on evidence-based assessment tools made by practitioners with a sufficient depth of experience and appropriate level of supervision." The practitioners concerned should be fully conversant and experienced in the powerful psychological issues at play in the re-integrative shaming process and of the opportunities and limitations of early intervention approaches to address risk factors.

1. Contrition and remorse

37. For reasons explained in considering the so called "key criterion of offender eligibility" (§11), Families and Friends for Drug Law Reform believes that to require "contrition" and "remorse" as a pre-condition for conferencing is at odds with re-integrative shaming. To require these mental states will:

exclude many offenders who might stand to benefit;

prejudice the outcome as one seen to be imposed on rather than chosen by the offender;

potentially further alienate the offender from the community; and

damage the already fragile family and other support network of the offender that links him or her to the community.

F. Participants in conferencing (§19)

38. Recommendation 22 (para. 19.9) on the preferred minimum participation in conferencing is on the right track in requiring that the offender's support network (as well as that of the victim) should participate. Just who should be embraced in the offender's network should be amplified having regard to principles of early intervention to address active risk factors affecting the offender. The convenor should therefore be given a discretion to include such people as is done in rec. 23 (para. 19.10). Guidelines should be laid down for that general discretion. The sort of people who should be included in the offender's support network (to address risk factors) should be specified. There is merit in including, as the Queensland legislation does (para. 19.4), a school representative, social worker or health professional as illustrations of the sort of people who should be included.

39. Families and Friends for Drug Law Reform notes that the list of preferred participants mentioned in para. 19.5 is narrower than the recommended preferred minimum participation in para. 19.9 in that para. 19.5 does not include a reference to support networks. Para. 19.5 is thus less adequate than para. 19.9.

G. Conferencing venue (§21)

40. Families and Friends for Drug Law Reform believes that the venue can influence the outcome. It urges that the restorative justice dynamic should operate in tandem with an approach that addresses risk factors for crime in the life of the offender. This means that where there is already a forum addressing risk factors and familiar to the offender and his or her family that should be chosen. It may, for example, be a school or a health, including a drug and alcohol, service. Such a venue would also make obvious to the offender that the community as readily recognisable by him or her has a caring interest in what is going on and a corresponding wish to see change and reintegration.

41. It is, of course, important that the victim feels secure. In this respect the presence of police (rec. 22, para. 19.9) should serve to offset concerns that the victim may have in the choice of a venue familiar to the offender. It can be explained to the victim that since change on the part of the offender is a principal objective of the conferencing, it will be in the victim's interest to consent to a venue that best facilitates that outcome.

42. Families and Friends for Drug Law Reform accordingly believes that the venue suitability criteria mentioned in rec. 25 (para. 21.4) should favour a venue that is most likely to lead to favourable outcomes in addressing operative risk factors in the life of the offender.

H. Conferencing outcomes agreement (§22)

43. Families and Friends for Drug Law Reform strongly endorses the need for safeguards to ensure that there should be no "demeaning or unreasonable punishments" (§22.3). This is an important point that is not fully captured by rec. 31 (§22.10) against agreements including "punishment that exceeds that permissible to the court."

44. It is of the first importance to recognise that in some cases the families of the offenders themselves will be under such stress that they will be prepared to go along with an outcome that is counterproductive. The notorious and appalling example should stand as a warning of the boy who was committed to walk around a Canberra shopping centre displaying a sign that he was a thief. Such action would more likely push the offender towards a criminal counter-culture than serve to reintegrate him into the community.

45. This sort of problem is likely to arise more often, the more the conferencing process is open, as Families and Friends for Drug Law Reform believes it should be, to "difficult" cases involving substance abuse and mental illness. In these circumstances it is all the more important that the conferencing process address all operative risk factors. These could well be ones having to do with the family of the offender.

I. Administrative framework (§26)

46. Families and Friends for Drug Law Reform favours Option 1, in which each agency may refer cases to a single agency tasked with the deciding suitability and providing the facilitator or convenor. Within that option Families and Friends for Drug Law Reform believes that the agency so tasked should be one distinct from the courts.

47. The reasons that the responsible agency should be distinct from the existing corrective structure of police, courts and corrections are the following:

the radically different dynamics that need to operate for restorative justice to be effective;

the potentially serious psychological harm that could be inflicted on participants;

the importance of addressing a wide range of risk factors affecting the offender; and

the need to marshal and co-ordinate a wide range of support services to address those factors.

48. An agency placed elsewhere than with the police, courts and corrections is more likely to have a mindset and skills that focuses on the individual in his or her social context and rather than on the individual in isolation from the rest of the community – the traditional approach of corrections. As the issues paper makes clear, close collaboration with police, courts and corrections would be necessary with a separate agency (paras. 26.5-26.7). Equally important will be close working relationships with other agencies and services. The importance of interagency collaboration should be reflected in the structure of the co-ordinating agency that is established.

49. It is likely that having an administrative agency separate from police, courts and corrections will potentially facilitate their very important role in conferencing. The criminal law and the institutions that support it are cornerstones of society. Their mere presence has high symbolic significance. Awareness of that law and of the presence of those institutions distinct from the process of conferencing can serve as important stimuli in the restorative justice dynamic.

V. Conclusion

50. At the very least, any method of dealing with an apprehended offender by way of correction should satisfy the following three questions:

Will it reduce crime?

Will it help victims of crime?

Will it be a worthwhile investment of community money and effort?

More than likely the proposal for conferencing as framed in the issues paper will produce a negative answer to the first and third questions and would probably be of only marginal help to victims.

51. In the first place it will not reduce crime for the threshold reason that it does not seek to address the vast bulk of property crime and crime against the person in the ACT that is associated with substance abuse and mental illness associated with substance abuse.

52. It recommends conferencing for the "easy cases" where substance dependence and mental illness are not involved. It is these very sort of cases for which the present system appears to be successful. Families and Friends for Drug Law Reform understands that a high percentage of young offenders (something like 83%) never reappear before a criminal court for another crime. It cannot be said therefore that conferencing is likely to reduce crime if the likely repeat offenders (those with a drug dependence or mentally ill) are excluded and those who will be judged suitable for the process are unlikely to reoffend anyway.

53. Conferencing involving even the "easy case" offenders may produce benefits as outlined in §6.3 for the victims involved. This is unlikely to be of significant benefit to victims

overall. The victims of the large quantity of crime committed by "hard cases" are excluded. It should also be remembered that the greatest benefit that any corrections strategy can accord any potential victim - and that includes all of us - is that we do not become a victim of crime or, since nearly all of us have been a victim at least once in our life, a repeat victim.

54. Will the exercise as framed be a worthwhile investment of community money and effort? It is very hard to justify the investment when the proposal will not reduce crime and does not tackle the large bulk of crime of highest community concern – crimes against property and the person where substance dependence and mental illness is involved. Existing drug diversion programmes are barely being utilised because, in a large measure, adequate human and other resources are not available. Moreover, support services for people with mental illness are grossly inadequate. In these circumstances to put resources into a restorative justice programme with such limited scope as that proposed smacks of tokenism and of pussy footing around the core problems.

55. While Families and Friends for Drug Law Reform is highly critical of the restorative justice proposal as framed in the issues paper, it strongly supports the concept of restorative justice. Families and Friends for Drug Law Reform believes that it has the potential to be of mainstream relevance. There should at least be a trial of this potential. The core failing of the proposal is that it seeks to provide for the powerful dynamic of reintegrative shaming in a context largely divorced from our understanding of the risk factors that increase the likelihood of people offending. Unlocking the powerful dynamic for individual change that reintegrative shaming represents will come to nothing or even make a bad situation thoroughly worse unless there is a co-ordinated and well resourced effort to tackle the main risk factors influencing the life of the offender. Substance abuse and mental illness are key immediate ones.

56. There are huge returns for the community in crime reduction alone if the Government works through the implications of what it acknowledges, namely that substance abuse is primarily a health issue. There are also huge benefits in terms of crime reduction with adequately resourced and co-ordinated mental health services. Moreover, a co-ordinated health-based approach to substance dependence and mental illness will produce a greater net benefit than the sum of benefits from tackling each of the parts. This is because mental illness is a potent risk factor for substance abuse and substance abuse appears to cause mental illness either directly through the effect of the drugs concerned (particularly amphetamine-type stimulants) or through the stressful lifestyle associated with drug dependence.

57. Conferencing that addresses the "hard cases" should, therefore, be embedded in an approach that embraces a well thought out, well resourced and well co-ordinated strategy that addresses substance abuse and mental illness. Even that will not be enough. Our knowledge about effective early intervention strategies tells us that maximum benefits flow from tackling a range of risk factors and not just one or two individually. Particularly where substance abuse is involved, many of these additional risk factors impacting on the offender will be associated with the very support network of family and others that the outcome of conferencing would normally look to in order to support fulfilment of the agreement arising from the conference. This is why it is imperative that conferencing be part of a planned larger holistic response involving a range of support services. As it is put forward in the issues paper it has almost exclusively a corrections focus with ill thought out links to other inputs that will be essential if it is to have more than boutique relevance to a matter of acute social concern in the ACT - crime.

