Conferencing in Belgium

Inge Vanfraechem
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Introduction

- Finding the conferencing model
- Introducing conferencing in Flanders, Belgium
- The action research
- Some research results
- Introduction in the 2006 Youth Justice Act
- Conclusion
1. Finding the conferencing model

- Sabattical of Prof. Lode Walgrave
- Two conferencing models
  - New Zealand: FGC, private time, presence police
  - Wagga Wagga: scripted real justice model, Braithwaite’s RIS
- Our restorative justice framework: maximalist model
2. Introducing conferencing in Flanders

- Policy priority of the Flemish Ministry of Welfare => agreement for action research
- New Zealand model: for serious offences
  - Mediation existed
  - Including the police
  - At youth court level
- Training of mediators in five judicial districts by Allan MacRae
3. The action research (1)

- Set-up of the project:
  - One FT researcher at KU Leuven
  - Methodology group
  - Steering group
  - Local steering committees

- Specificity of the continental European justice system:
  - Role of the police
  - Judicial framework
3. The action research (2)

- Specificity of the Flemish project:
  - Implementation at the level of the youth court
  - Serious crimes
  - No script
  - Youth protection system
3. The action research (3)

- Developing a handbook throughout the years:
  - Referral by the youth judge, who will ratify the youngster’s “declaration of intent”
  - Serious crimes, or a series of less serious crimes (“serious offender”)
3. The action research (4)

- **Handbook (continued):**
  - No script, but nevertheless a certain framework:
    - A circle, no fixed seatings, police in between the parties
    - Introduction by facilitator
    - Police reads out the facts
    - Victim story
    - Offender story
    - Networks
    - Private time
    - Proposal by the YP
    - Discussion
3. The action research (5)

- Description of the role of professional actors in factsheets:
  - Social worker of the youth court
  - Lawyer of the YP and possibly victim
  - Police
  - Victim support

- Importance of handbook for implementing practice after Youth Justice Act 2006 (cf. infra)
4. Some research results (1)

- Applicability of the project in practice
  - The procedure: a space was found for conferencing in the existing system
  - Conferences had been held (53 conferences for 58 YP; 26 + 10 conferences victim presence)
  - 1-11 support people for the YP (3-4 at average)
  - Victims feel supported by each other
  - Satisfaction of the participants
  - Procedural justice
4. Some research results (2)

Presence of the victim remained a challenge:

- Importance of timing
- Impersonal victims
- Non-participating victims = no conference
- Restoration of the damages: awaiting the execution of the agreement (who to follow up and how long)
4. Some research results (3)

- Closed institutions: a combination would be possible
  - Conference as an alternative
  - Or as a way forward to reintegration and restoration
- Importance of training facilitators
5. Introduction in the 2006 YJA (1)

- 2004-2005: some practice continued
  - 39 conferences for 51 YP
  - 32 + 2 conferences with a victim (representative)
    => more experienced facilitator = more victim presence?

- Research report + final conference

- Already many years a long-lasting discussion on youth protection system
5. Introduction in the 2006 YJA (2)

- 2006: new youth justice act
- RJ as priority: mediation and conferencing
- Role of the police? Of the lawyer?
- Youth judge can only dismiss when outcome is against social order
- Thus: a success story!

- Priority, numbers did go up but remain marginal…

- Research 2007-2010 (Flanders):
  - 335 YP referred (compared to 58)
  - Mostly to previous services
  - But these saw their numbers going done again in 2010
6. Conferencing: a success story? (2)

- Research 2007-2010 (cont’d):
  - 64.8% of referrals no conference, mostly because of victims (67.3%)
  - When conference starts, often agreement is reached
  - 16.9% without victim presence
  - Mostly no support people for YP besides parents
  - Police (92.4%) and lawyers (82.2%) present (although not included in law)

- Possible explanations according to the actors:
  - Procedure too complicated for prosecutors (i.e. selection to be done by mediation services)
  - Mediation widely implemented
  - Conferencing still unknown
  - Criteria for a conference unclear
  - Too few conferences thus cases not always fit
  - Lack of concrete info on conference

- Possible explanations according to the youth judges:
  - Other measures to be taken
  - Mediation was offered before
  - Conferencing unknown
  - Procedure too complicated

- Possible explanations according to the youth judges (cont’d):
  - NOT because of
    - Negative experiences
    - No view on content
    - Participants’ dissatisfaction

- Possible explanations according to us:
  - RJ in CJS: an impossible fit?
  - Training of facilitators
  - Mediation as a priority: no room left for conferencing at youth court level?
  - ...


Open questions:
- Numbers since 2010?
- Difference mediation – conferencing?
- Difference Flanders – Wallonia?
- Importance of continued follow-up?
- Priority in law insufficient?
- …