

# COMMUNITY CONFERENCING PROGRAM

Milwaukee County District Attorney's Office

EXHIBIT  
E. Michael McCann 2/11/05  
DATE  
HB 391

## What Is Community Conferencing?

Community Conferencing is a process in which the victim, offender and affected community members come together in a safe setting with an impartial facilitator to discuss the facts and impact of a particular crime. During this process the victim and community members can ask questions and express directly to the offender how the crime has impacted their lives.

Conferencing provides a victim greater access to and voice in the criminal justice process. Conferencing also humanizes the incident more directly for the offender so that he or she may better understand the human consequences of his or her wrongdoing.

## How Does Community Conferencing Work?

Referrals to the Community Conferencing Program (CCP) may come from prosecutors, defense attorneys, victim-witness advocates, judges, law enforcement, probation officers, or from victims who wish to speak directly with the offenders. Violent crimes and cases involving drugs or guns will not be accepted.

After a referral is received, the offender is contacted through his/her attorney or, directly, if he or she has no attorney, to determine whether the offender is appropriate for the program. Factors to be considered when making this decision include: acceptance of responsibility for the act, the type of crime, degree of remorse, prior record and the offender's general attitude about meeting with the victim.

If the offender is appropriate, the victim will be contacted to see whether he or she would consider participating. If the victim does not wish to participate in the community conferencing program, the case is processed through regular criminal justice procedures.

## The Three Stages of Conferencing...

1. Discussion of the facts
2. Exploration of the impact on affected parties
3. What needs to happen to make the offender accountable for the harm he or she has caused the victim and the community.

## Why Would a Victim Choose to Participate?

Through Community Conferencing victims participate *directly* in the justice process. The process is dignified and respectful. Important points about conferencing are:

Victims have an opportunity to pose questions about the crime directly to the offender.

Victims can openly express to the offender how the crime has affected them and their families.

The process helps to facilitate real and agreed upon steps the offender can take to help repair the harm caused to the victim.

The offender is made more aware just how his or her actions have impacted the victim specifically and, if appropriate, the community generally.

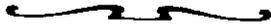
## Key Principles of Conferencing

1. The victim is *essential* to the conferencing process.
2. Participation by a victim is entirely *voluntary*.
3. The participants, consistent with the program process and guidelines, help determine case resolution.



Community Conferencing is based upon the principles of Restorative Justice. Restorative Justice engages the victim and affected community members as active and meaningful participants in the justice process.

Restorative Justice seeks to assess the harm done by a criminal act and then determines what needs to be done to repair the harm while holding the offender accountable for his or her actions.



*"We are caught in an inescapable network of mutuality, tied in a single garment of destiny. What affects one directly, affects all indirectly."*

*Rev. Martin Luther King, Jr.*

**From the Victim's perspective\* ...**

*"Defendant was made more aware of importance such behavior has on victim, community and self."*

*"My feelings upon leaving conference was that defendant has a better understanding of her actions, may be less inclined to repeat."*

*"Benefit: accountability. Strength: communication."*

*"It's a meeting where people can discuss what happened and its repercussions."*

*"The benefit was the door of communication. The strength - I was truly a part of the conference."*

*"Gives the perpetrator the opportunity to do the right thing for his life in the future."*

*"Benefit: to face the offender, and make her face the crime and victim."*

**Milwaukee County Task Force on Restorative Justice**

The Milwaukee County Board of Supervisors created the Task Force in September of 1998, to explore restorative justice applications and educate the public about restorative justice principles.

The Task Force is a 19-member body including representatives from the following agencies: The Benedict Center, Department of Corrections, House of Corrections, Interfaith Conference of Milwaukee, Latino Peace Officers Ass'n, Midtown Neighborhood Ass'n, Metcalfe Park Residents' Ass'n, MICA, Milwaukee County District Attorney's Office, Milwaukee County Sheriff's Department, Milwaukee Police Department, 100 Black Men, State Public Defender's Office, UMOS, and Wisconsin Correctional Services.

**From the Offender's perspective\* ...**

*"It shows offenders how much they hurt their victim and gives offenders a chance to apologize to their victims."*

*"It was hard to face the victim, but that's not bad." Same offender wrote, "Because I wanted to show how I really felt about the situation."*

*"It allows for fair discussion instead of falling through the system."*

*"I thought that I should give back to the community what I took."*

*"I get to know how the crime affects everybody else in the community and what they think of it."*

*"I am much more aware of their (victims) point of view and how much it hurt them."*

\*Responses taken from anonymous CCP evaluations

**For More Information about the Community Conferencing Program or becoming a trained Volunteer Community Facilitator, please contact the following:**

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## The Role of the Defense Attorney

1. Understand the rudiments of the conferencing process. Generally, the conference will have 3 phases: discussion of the facts, discussion of the impact of the offense on the parties, and a discussion of what has to happen to right the wrongs. Emotions often run high during the first two stages; do not allow your own beliefs or feelings to interfere with this process. You will also have the opportunity to state your opinion, if you choose to do so. However, you will be speaking as a "counselor at law" or support person, and not as an advocate trying to have your client found innocent.
  2. You are a counselor at law. You are clearly bound to represent your client's best interests. However, by agreeing to participate in the CCP, you and your client have recognized that your client has accepted responsibility for the offense in question. Therefore, you are not to be an advocate in the classic sense.
  3. Allow your client to speak; do not speak for him/her. The conferencing process is to allow the perpetrator to own up to his/her actions in front of the people s/he has harmed. If you speak on his/her behalf, you take away from your client the opportunity to delve into his/her inner self to answer the questions posed to him/her by the victims and community representatives.
- Remember that most of the participants will likely not be lawyers. When you speak, remember that you are dealing with a group of volunteers, trained in the conferencing process. They are most likely not attorneys. Use your words with this in mind.
5. Treat a Conference as an important meeting with a client. Each conference takes about 1-½ hours. Please do not double book these times. This is not similar to court. The other people present for the conference cannot simply go to another court, or speak with another client. They came to the conference to meet with all the stakeholders. You must keep these appointments free and clear!
  6. Negotiating the ultimate resolution of the case will not occur during the actual conference. Understand that the facilitator is not able to negotiate the resolution of the criminal charges against your client. Rather, the facilitator is there to assist the stakeholders in discussing what happened, the impact of the offense, and possibly reaching an agreement as to what steps need to be taken to repair the harm caused by the offender. You will have an opportunity to discuss the resolution of the case with a prosecutor.
  7. If an agreement is reached, work with your client to comply with the conditions. Because the parties have invested time and energy into reaching an agreement, it is crucial that the offenders comply with the conditions and the timeline. Non-compliance may result in additional conditions being imposed on your client.
  8. Stay in touch with CCP staff! CCP staff members are responsible for keeping courts and other prosecutors informed of progress in the case. Please return all inquiries as promptly as possible.

# Recidivism

## Milwaukee County Community Conferencing Program

May 2000-July 2002

	Number of Offenders	Number Who Re-offended	Recidivism Rates	Type of Re-offense				
				Misdmmr	Felony	M&F	Multiple misdmmr	Multiple felony
<u>Control Group</u> Offenders who did not Participate in Community Conferencing	105	24	22.9%	13	2	3	4	2
<u>Test Group</u> Offenders Who Participated in Community Conferencing	99	10	10.1%	4	3	0	2	1

### RECIDIVISM

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#### Summary

There was a 10.1% recidivism rate among the 99 offenders who participated in a community conference between May 2000 through July 2002. There was a 22.0% recidivism rate for 105 members of the similarly situated control group.

#### Procedure

The Restorative Justice Coordinator position officially began January 2002. That would not be a sufficient amount of time to conduct a viable recidivism study. However, because the Community Conferencing Program actually began operation in May 2000, we were able to conduct a study.

We reviewed the criminal records of ninety-nine offenders who participated in a community conference between May 2000 through July 2002. We compared the re-offense rates with a control group of 105 offenders whose cases were deemed appropriate for the Community Conferencing Program during the same time period, but whose cases were not ultimately included in the Program due to the victim declining to participate. Re-offense is defined as being charged with a new criminal case in Wisconsin. We included criminal traffic matters except for Operating after Revocation cases. We reviewed the CCAP records statewide on January 23 and 24, 2003 for each of these offenders.

## Milwaukee County District Attorney's Office Restorative Justice

Restorative Justice engages the victim, offender and community members as active and meaningful participants in the justice process. Restorative Justice seeks to assess the harm done by an act, and then determines what needs to be done to repair the harm while holding the offender accountable for his / her actions.

Restorative Justice is a coherent set of values and principles with an "action oriented mission." ("Guide for Implementing the Balanced and Restorative Justice Model," Office of Juvenile Justice and Delinquency Prevention, 1998, p.5). Principles of Restorative Justice include:

- Crime hurts individual victims, communities and offenders, and creates an obligation to make things right
- All parties affected by a crime should be part of the response to the crime, including the victim, if s/he wishes
- The victim's perspective is central to deciding how to repair the harm caused by the crime
- Accountability for the offender means accepting responsibility and acting to repair the harm done
- The community is responsible for the well-being of all its members, including both victim and offender
- Repairing the harm and rebuilding relationships in the community represent the primary goals of Restorative Justice'
- Results are best measured by how much repair was done rather than by how much punishment was meted out
- Crime control cannot be achieved without the active involvement of the community

The Milwaukee County District Attorney's Office is engaged in restorative programming through:

### The Community Conferencing Program

Community Conferencing is a process in which the victim, offender and community members come together in a safe setting with an impartial facilitator to discuss the facts and impact of a particular crime, and what has to happen to repair the harm. Conferencing provides a victim greater access to and voice in the criminal justice process. Conferencing also allows the offender to learn about the real human impact of his or her offense. Community members participate to give voice to broader community concerns, as well as to provide support to both the victim and offender as needed. The Community Conferencing Program (CCP) operates in adult court and is available for non-violent cases where the offender admits to wrongdoing.

Milwaukee's CCP began operation in May 2000. A January 2003 study revealed that among the 101 offenders who participated in a conference between May 2000 – July 2002, 11 had been charged with a new crime compared with 25 from among 106 similarly situated offenders who did not participate. The corresponding recidivism rates are 10.9% re-offense rate for participants versus 23.6% re-offense rate for non-participants.

### The Neighborhood Initiative

The Neighborhood Initiative has focused on developing restorative programming in two central city neighborhoods beset by high crime rates. After several months of collaborative investigation with neighborhood representatives, the Neighborhood Initiative has been pursuing the development of neighborhood entities that rely upon the circle process. Our efforts have been in conjunction with the Midtown Neighborhood Association and the 3<sup>rd</sup> District Community Justice Center, which serves the Metcalfe Park and Walnut Hill neighborhoods.

The circle process is an avenue to bring people together as equals to talk about difficult issues and painful experiences in an atmosphere of respect. Circle process creates the opportunity for all participants to recognize their mutual interdependence in the quest to live in a positive way in a safe community.

The Neighborhood Initiative restorative circles, with neighborhood residents serving as circle members, will focus on a range of issues such as neighborhood disputes, criminal cases that arise in those neighborhoods, and re-entry of offenders from the corrections system back into their neighborhoods.

The Neighborhood Initiative allows the DA's Office to further work with community residents most at risk of suffering the consequences of crime. This Initiative is premised on the belief that resources, including human resources, within the affected community must be brought to bear on the problems associated with crime. The circle process provides a profound and meaningful way to empower and energize the residents of these neighborhoods.

Milwaukee County District Attorney's Office  
February, 2003

**COMMUNITY CONFERENCING PROGRAM  
MILWAUKEE COUNTY DISTRICT ATTORNEY'S OFFICE**

**Consent to Participate**

The undersigned agree to *voluntarily* participate in the Milwaukee County Community Conferencing Program (CCP). Specific identifying information about the victim, the offender or community representatives will not be released by any participant to outside parties without the consent of the individual in question. However, the facilitator will report to appropriate authorities if information revealed during the conference indicates any of the following:

- Someone is being physically harmed
- Someone is in danger of being physically harmed
- Someone has committed a felony, or a sexual assault of any type
- Exculpatory Evidence: Evidence that tends to prove an accused innocent of the charges leveled against him or her.

Should the victim and the offender reach an agreement, the agreement will be reduced to writing and the parties present during the conference, with the exception of the facilitator, will be asked to sign and date the agreement. Copies of the agreement will be given to each person who signs. Copies will also be given to the court, the District Attorney's Office, and the referral source. If no agreement is reached, the discussion that transpired during the conference will not be reported to the court or to any outside parties, unless there is a need to report, as stated above.

In order to maintain the status of neutrality and program integrity it is further agreed that the parties will not subpoena the facilitator, the facilitator's case files, or community representatives for future legal proceedings relating to the case brought before the community conference.

The CCP will maintain records of the agreement and notes of compliance related to the progress and ultimate outcome of the agreement. Furthermore, the written agreement along with socio-geographical data may be used to study the program without reference to individual parties.

**Signature:**

*Please sign name and date this column.*

*Please print name in this column.*

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Conference Facilitator: \_\_\_\_\_