

# **Privacy, Confidentiality and Professional Boundaries: Challenges to Working Collaboratively**

PACCOA Conference

Melbourne

23 October, 2008

Hello and thank you for the opportunity to talk to you today.

I would like to start by acknowledging the Wurun-djeri people of the Kulin Nation as the traditional owners of the land on which we stand; and pay my respects to their elders, past and present.

In line with the theme of this conference I am going to talk today about privacy, confidentiality and professional boundaries but from the context of inter-agency collaboration. I will start with a short description of inter-agency collaboration and then briefly describe the historical and current working and relational arrangements between Community Corrections and Enforcement Operations. I will then go on to talk about some of the work that the two organisations are currently doing together. Finally, I will finish with a discussion on the paradox that developing a collaborative relationship presents in terms of privacy, confidentiality and professional boundaries.

## **Introduction**

Increasingly the problems or issues confronting organisations cannot be addressed by focussing collaborative efforts only *within* organisations as was often the case in the past. Systems issues, external pressures, globalisation and advances in technology all mean that the problems faced by organisations today cannot be solved by individual organisations alone. Organisations increasingly need to work together to achieve desired outcomes. This new inter-dependence has generated a need to focus on collaboration *between* organisations sometimes known as inter-agency

collaboration. Law enforcement agencies are not immune from this need to work more collaboratively.

In talking about inter-agency collaboration I am referring to those situations where two or more organisations come together specifically to work on an over-lapping task. I think the experience of Community Corrections and Enforcement Operations over recent years provides a useful case study from which to examine some of the issues associated with inter-agency collaboration for reasons which I hope will become clear shortly.

Collaborative relationships can take many forms including strategic alliances, networks, joint ventures and partnerships;

and they can take place across a range of sectors. These include for example, collaborations between private sector organisations, public private partnerships, joined up government projects and government working in partnership with the not for profit sector.

There is a mountain of academic literature from a range of different disciplines examining inter-agency collaboration and it all has one thing in common. Almost without exception the literature agrees that inter-agency collaboration is very hard work. Even in the face of recognition by people leading contemporary organisations that collaboration with likeminded organisations is essential, in an increasingly complex world, collaborations continue to fail.

In part, this results from a failure by many of the people leading collaborative endeavours to understand that collaboration is more than just sharing resources to resolve a common problem. Collaboration is a complex relational process that requires sophisticated, mature working relations between partners.

I also think that the development of collaborative relationships is paradoxical in nature and that this paradox is at the heart of what makes collaboration so fraught with tension. Think about it this way. You have two organisations that are doing quite well on their own but for some reason agree to work together

on a common task. I understand this from a psychoanalytic perspective where you have two separate whole objects coming together to form a new joined up whole object. In so doing, each of the original whole objects must become part objects in order to form the new whole object that emerges out of the collaborative process.

Are you with me? I know this is confusing when you come to this cold. Put simply, the two wholes must become parts in order to form one new whole. In terms of group dynamics the tensions generated out of the magnitude of this paradox are almost unbearable and the emergence of primitive, unconscious group processes are inevitable.

In order for a whole object to become a part object it needs to let some things go. In practical terms this means that each of the participating organisations needs to let go some of their long established ways of doing business in order to find new ways of working with their collaborating partners. Tensions also arise out of having to let go some of the power and control in order to establish new authority relations with collaborating partners that in some cases had been competitors in the past. This is often very threatening for organisations. The deep suspicion, paranoia and associated defensive behaviours that inevitably emerge at some point in all collaborations must be dealt with effectively or the collaboration is doomed to failure. No collaboration will succeed if the primitive, unconscious group processes cannot be worked with constructively. Only then will the new collaborative group and mature working relations be able to develop and flourish.

Interestingly, I think it is the emergence of the new group that makes it difficult to keep privacy, confidentiality and professional boundaries in mind in collaborative environments. I will return to this point shortly. Now I will describe the historical context of the CCS and Enforcement Operations relationship.

## **Background**

Many of you here today will know that until relatively recently, Community Corrections and Enforcement Operations in Victoria had little interaction despite sharing a law enforcement function and a common offender or defendant base. Even following the introduction, many years ago of Community Work Permits, the two agencies continued to have only limited interaction based on sometimes very tenuous relationships.

When these new permits were introduced, there was little in the way of structural or organisational imperative that required the two agencies to work together or consult with each other when operationalising the new arrangements. As a consequence, high levels of frustration were experienced by both agencies.

I was working in Community Corrections in the mid 90's and I can recall the frustration experienced, especially by rural and regional CCS offices, when Sheriff's Officers would swoop into a country town, carry out an operation actioning hundred's of warrants; many of which were then converted into community work permits. The first the local CCS office knew about the Sheriff being in town was when the subsequent wave of people began reporting community work. While community work permits were a great way of resolving the Sheriff's problem, CCS offices had no capacity to plan community work for these unexpected numbers and they quite understandably felt frustrated and angry. There was also little thought given to how to deal with breaches of community work permits which added to the tension.

Even today, when a Sheriff's Officer is considering making a community work permit there is no requirement to consider past performance on previous community work orders or permits, or if the person's psychosocial or physical circumstances indicate whether or not a community work permit is an appropriate option. The making of permits without adequate information sets some defendants up for failure and contributes to unnecessarily high breach

rates that then require significant resources from the whole justice system to resolve.

It is also still the case that when a Sheriff's Officer makes a community work permit, they get no feedback from the system to indicate the success or otherwise of their operational decisions.

I don't raise these issues to be critical in any way but rather as observations about how a system continues to operate in ways that force agencies to work against each other at some level. To resolve these issues it is necessary for us to work collaboratively. I am pleased to say that this is beginning to happen.

### **Current cooperative environment**

Over the last few years the decision to co-locate CCS and Sheriff's Operations has begun to have an impact on the relationship between the two agencies although it is still fragile. Late last year, as part of a program designed to modernise Sheriff's Operations, and in the context of One Justice and the regionalisation of justice services, I was asked to provide information on the status of cooperative arrangements between Sheriff's Operations and CCS at selected co-located sites.

There was evidence that relations between the two agencies were based largely on personalities. While there was goodwill and support for the idea of working more closely together, some relationships were considerably more mature than others. The maturity of the relationships was influenced by how long Location Managers and District Supervisors had been based at their respective locations and that changes in key personnel at an office destabilised previous arrangements and set cooperative arrangements back.

Despite there being a need for both CCS and Sheriff's to better understand the nature of each others business, there was evidence of a good understanding of the opportunities co-location and collaboration might offer. For example, improved service delivery, joint generic training and professional

development opportunities, sharing of consumable resources, shared administration and reception functions, short-term vacancy management and saving on utilities costs and facilities management were all seen as possible benefits. CCS also raised the possibility of Sheriff's Officers serving CCS summons. Some sites have been better able to realise these opportunities than others.

There was also a lack of structures and processes to support the ongoing development of cooperative relationships. Think back to what I said earlier about inter-agency collaboration being hard work. Collaborations don't just happen because a couple of people think it would be a good idea. It takes hard work and must be supported by structural arrangements. The inter-agency collaboration literature refers to the need to have a number of integrating mechanisms in place to support collaborative endeavours because of the complex nature of this work. It also refers to the need to create a space to work on the collaboration itself.

In this context integrating mechanisms might include an expectation that locations have a schedule of regular meetings to address co-location issues and work towards realising the opportunities. Or it might involve joint direction and oversight of progress by Divisional Operations Managers and CCS General Managers and system wide oversight and direction by senior management which in essence involves direct and visible support for collaboration at the Director level within both agencies.

Without these mechanisms the development of cooperative practices will continue to be ad hoc and dependant on personal relationships at the local level and as such remain unstable and prone to fragmentation.

A number of systemic impediments that make it difficult for cooperation to flourish were also identified. These included a lack of high level direction about how cooperative arrangements were to be implemented meaning that field staff at the individual officer level had to interpret what this meant and how it might be implemented. There was no clear and consistent ownership or

direction for cooperation above the location manager level, no visible model for cooperation at the agency level, no mechanism to resolve impasses and inadequate strategic planning for future co-locations.

And at a really fundamental level, there were no formal mechanisms for us to share information about the offenders and defendants that are common to both agencies. These findings resulted in the initiation of a number of projects that aim to improve collaboration on a number of different levels. I will briefly describe these and then go on to talk about privacy, confidentiality and professional boundary issues.

### **Shared Services Project**

In line with One Justice principles and in anticipation of the implementation of the Justice Regional Service Delivery model, Enforcement Operations and CCS have initiated what is known as the Shared Services project which aims to develop a framework to support collaborative endeavours between the two agencies. Collaboration will improve service delivery and enhance the capacity of CCS and EO to carry out their operational functions. The sharing of information held on VIMS and E\*Justice between EO and CCS is a key enabler of this project.

Together we have developed a draft framework that is designed to encourage cooperation and provide guidance and support to managers and staff at co-located sites to work more cooperatively. The framework will authorise managers to work cooperatively and will provide practical assistance to support collaboration in local and regional offices. It will also provide a blue print for planning co-location at new sites. The framework has been developed after an extensive consultation with CCS and Enforcement Operations managers across a number of sites and builds on effective practices that are already in place in some locations. It seeks to build on these great examples but recognises that strategies need to be tailored to meet the needs of particular offices and one size does not fit all.

## **Information Sharing**

The next project involves setting up processes to allow the sharing of relevant information between the two agencies. E\*Justice, LEAP and the Victorian Infringement Management System all hold relevant demographic and behavioural information about offenders and defendants that are common to both systems. But as a result of past decisions by Enforcement Operations this information cannot yet formally be shared between CCS and Sheriff's Officers.

CCS Officers know only too well the risks associated with dealing with offenders and defendants in their homes with little or incomplete information about behavioural antecedents. Access to information held in LEAP and E\*Justice would provide Sheriff's Officers with the most up to date information about the people they are dealing with to ensure Officer safety minimise OH&S risks.

It has recently been agreed that Enforcement Operations will become a signatory to the CJEP memorandum of understanding that governs access to information on E\*Justice. Following the implementation of the necessary privacy safeguards and training, Enforcement Operations will be able to access relevant information held by CCS and Victoria Police. Enforcement Operations will also share information held in its Infringement Management System with CCS. Next week the two agencies are beginning a process to determine what information should be shared and to develop an implementation strategy to ensure staff in both agencies are supported in these new arrangements.

## **Process re-engineering CWPs**

Finally, out of all of this work, we have also become aware that there may be a number of other opportunities to improve the way community work permits are made and how breaches are managed. These improvements will benefit, CCS, Enforcement Operations and the Courts. Full realisation of these opportunities will depend on a capacity to share information between the three agencies and most importantly, a collaborative working relationship. The three

agencies have commenced early discussions about how, what are fundamentally process re-engineering opportunities, might implemented.

As we continue to work together, new and exciting opportunities will continue to open up that will benefit us both. Joined up ways of working makes intuitive sense to many of us but there are however some things that need to be kept in mind about how we work together.

### **Privacy, confidentiality and professional boundaries**

You have heard a lot over the last two days about privacy, confidentiality and professional boundaries and I don't want to go back over all of that. I am sure I am in agreement with much of what has been said to you already. My word of caution today relates to the seductiveness of collaboration and how that seductiveness might challenge our ability to necessarily maintain our objectivity in relation to privacy, confidentiality and professional boundaries.

The concept of boundaries is key to our understanding of organisations and the way each of us takes up our roles within these organisations. While much of the discussion about both professional and organisational boundaries implies that they are concrete 'things' that we can reach out and touch, boundaries are in fact socially constructed, spatial, temporal and psychological concepts and represent a delineation between everything that is within an organisation or role and all of that which is outside. As such, no-one can really delineate boundaries for anyone else. As professionals we each need to do that for ourselves and it can only be done through a process of experience and reflection.

Boundaries are important in the context of this discussion today because at the system level, they assist with the flow of information, the distribution of authority and the management of relationships with different parts of the system. Boundaries can be too rigid or too undefined and getting the permeability of organisational boundaries right is a delicate balancing act that is the role of managers. The optimal degree of boundary permeability for each organisation is determined by its relationships with other parts of the system.

Once each of us has established where our professional boundaries lie we can carry out our role with a degree of comfort in understanding the extent of our authority about what we can and cannot do. This includes who we can share information with.

Organisational change, such as a new or emerging collaborations, create significant challenges to established boundaries. Working in these transitional spaces effectively requires appropriate individual and organisational responses to enable the everyday business of the organisations to continue. There is evidence that during the turbulence of new collaborative endeavours, organisations are less likely to be willing to share information of any type because of the high degree of suspicion and paranoia surrounding the new relations with the other organisation. It is here, on the edge, between the two organisations that inter-agency collaboration is played out, often in a mire of anxiety and defensive mechanisms. At the same time, our professional boundaries are changing rapidly which leads to uncertainty about what we can and cannot do in terms of our roles.

If the collaboration survives these tensions and it moves to a phase of maturing relations, I think the risks associated with privacy, confidentiality and professional boundaries become most prevalent. Regardless of whether we are talking about a major multi-national company or a regional office where CCS and the local Sheriff's Officer are co-located, the seductiveness of the new relationship that forms as a result of the collaboration is a powerful dynamic. There are conscious efforts being made by both parties to find new ways of working together including sharing information.

If, as is currently the case with CCS and Enforcement Operations, new systems are not in place to support the new ways of working we all risk unintentionally overstepping our professional boundaries and compromising our capacity to protect the privacy and confidentiality of offender and defendant information. It comes to my attention on a regular basis that as managers and staff in co-located sites find new and productive ways of

working together, they are unintentionally running ahead of the organisational systems and are beginning to share information in a way that is inconsistent with current organisational arrangements. I understand that this is in no way intentional and is underpinned by the best possible motives but this is never-the-less a cautionary tale.

With the introduction of regionalisation and in light of the desire for CCS and Enforcement Operations to work more collaboratively, we are in a state of significant organisational flux. During this time it is critical that managers in both organisations work at the newly emerging boundaries and ensure the integrity of handling private and confidential information in ways that are consistent with the Information Privacy Act and the public sector Code of Conduct.

We are never-the-less at a very exciting time in the evolution of our two organisations and I am the last person to want to go back to an old way of working where we treated each other with suspicion and work in inefficient, risky ways. We do however need to balance our excitement about working in a different way with our legislative obligations and give the formal systems time to catch up.

Thank you very much.