

YOUTH JUSTICE – THE NEW ZEALAND EXPERIENCE

“Past Lessons and Future Challenges”

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- And one final “weakness”...

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1. Introduction/Overview

“There is always one moment in childhood when the door opens and lets the future in.”

“The Power and the Glory”, Graham Greene

Welfare-based System Abandoned

On the 1st of November 1989, New Zealand adopted new legislation (the Children, Young Persons and Their Families Act 1989, or ‘the Act’) which was unprecedented in the English-speaking world. The Act:

- ?? established a framework for the way in which the State could intervene in the lives of children, young people and their families (care and protection); and
- ?? set up an innovative system of youth justice to respond to young people who offend (youth justice).

The Act saw a shift from a “welfare-based” mentality (where the State imposed generalised solutions on young people and their families in the interest of “curing” young offenders) to a system where young people, their families, victims, the community and the State are all involved in addressing and taking responsibility for offending and its consequences.

Twin Objectives for Youth Justice

There is a two-fold emphasis in confronting youth offending²:

- i. to ensure that children and young persons who offend are held accountable for their offending; and
- ii. to deal with them in ways that eliminate re-offending and help them develop into “good citizens.”

The New Zealand system aims to hold young people accountable for their actions, but is equally focused on their rehabilitation and reintegration into the community, and the reduction of their re-offending. There is recognition that harsher sanctions and shock/“scared straight” tactics, while understandably appealing to the public, have nowhere been proved to reduce youth re-offending.

The New Zealand youth justice system emphasises diversion from Courts and custody for all but the most serious offences. An impressive 76% of cases are dealt with by the Police (through informal and formal warnings and diversionary ‘alternative action’ programmes) and never come to Court. The present system simply could not cope without the Police’s commitment to “alternative action”.

The Family Group Conference System: Is it a Māori/Indigenous Model?

A groundbreaking element of the New Zealand Youth Justice system is its partial amalgamation of traditional Māori and European approaches to criminal justice in the form of the Family Group Conference (‘FGC’), the lynchpin of the New Zealand system.

In Māori custom and law, tikanga o ngā hara (or the law of wrongdoing) is based on notions of collective rather than individual responsibility. Understanding why an individual has offended and addressing the causes collectively is seen as a benefit to society as a whole.

Although many of the processes of Māori law no longer exist, the whanau (or family) meeting is still used by extended families in some areas to resolve disputes. It was this model that was seen as a prototype of a new method for resolving disputes within families in a way that was culturally appropriate for Māori as well as a model of an empowering process for all New Zealand families. The adoption of this model accords with a shift in modern Western legal systems towards alternative methods of dispute resolution, such as mediation.

However, it is important to recognise that the Family Group Conference is not the wholesale adoption of an indigenous method of dispute-resolution and a rejection of the Western legal system. It is rather a modern mechanism of justice that is culturally appropriate. It contains some elements of the traditional Māori system of whanau decision-making, but also elements that are foreign to it (such as the presence of representatives of the State). It also modifies elements of the traditional system, such as the roles played by the family and victims.

Distinctive Elements/Strategies

The New Zealand system incorporates a number of innovative strategies:

- ?? as previously mentioned, emphasising diversion/alternative action and having a statutory direction that charging is to be a last resort;
- ?? taking account of the rights and needs of indigenous people;
- ?? making families central to all the decision-making processes involving their children;
- ?? having young people themselves actively participate and have a voice in the decisions as to how their offending should be responded to;
- ?? giving victims a key role in negotiations over possible penalties for juvenile offenders, making possible a healing process for both offender and victim;
- ?? having decision-making negotiated by group consensus at a FGC.

It has sometimes been said that the youth justice process is characterised by a transfer of power from the State, principally the Court's power to the community³. As the Youth Court retains the power of final approval of all FGC plans, and the responsibility to supervise all plans, it is probably better to speak of a significant, but partial, transfer of power to the community.

Is the New Zealand System a Restorative Justice Approach?

The New Zealand system, especially the FGC, has been practised as a restorative justice system, though this was not necessary to conform to the provisions of the Act. Restorative justice is nowhere mentioned in the Act, yet a restorative justice approach is entirely consistent with its objects and principles.

The answer to the question then: No, not necessarily in theory; but yes, in practice. See the discussion at heading 5, following, for further detail.

Evidence Based Evaluation of the NZ System Lacking

Evaluation of the New Zealand system has been slow in coming. There is a lack of good empirical data and research. Such material as we do have indicates that the system is certainly successful in reducing the number of cases in Court, and the number of young offenders imprisoned (see graphs: “Diversion rates per 10,000 distinct cases in Youth Court aged 10 – 16 years; 1987 to 2001” and “Decarceration: number of cases receiving custodial sentences: 1987 – 2001”, following, at heading 11 no.3; and heading 11, no.9, respectively).

It is more difficult to draw conclusions about reduced offending, especially as there is no “control” group against which to test the model. Where properly resourced, there is every reason to believe that the system is, at the least, as successful in reducing youth offending as any other. Youth offending has remained a stable 22% of total offending since the introduction of the Act. In terms of qualitative participation by offender, victim, and wider family groups the NZ System certainly seems better than other systems internationally.

A difficult question is how successful the system is with serious young offenders. This is a small group in New Zealand, numbering between 500 –3,000 young people, depending on the defining criteria used. Their re-offending rates appear high. That said, serious young offenders are a problematic and challenging group in every Western country. There is nothing unusual about this being a major problem in New Zealand. It is, however, still a significant concern.

Summary of this Paper

This paper begins by putting the New Zealand Youth Justice system in the context of New Zealand society. It then describes the jurisdiction of the Youth Court to intervene in the lives of children and young persons who offend. Next the paper outlines the principles and objects that govern the New Zealand system. It then discusses in some detail what happens when a young person is detected in alleged offending – what the day-to-day processes of the Youth Justice system are.

As has been mentioned, a key element of the New Zealand system is the Family Group Conference (or ‘FGC’). This paper describes the various scenarios in which an FGC may occur, what happens at a typical FGC and what the outcomes may be.

Another feature of the New Zealand Youth Justice system is the way in which the Youth Court, within its specialist jurisdiction, may address serious offending by way of formal orders under the Act. These orders are listed and explained.

The paper then sets out statistics that put the sort of shocking headlines that may lead to a misconception of the extent of youth crime – and public calls for “something to be done” – into perspective.

Finally, the paper highlights suggested strengths and identified weaknesses in the New Zealand system – the things that all who work in it are currently focused on addressing, to improve outcomes for young offenders.

2. The Context: New Zealand Demographics and Trends Relating to Young People

New Zealand has a resident population of just over 4 million people⁴. One quarter of that number are aged 16 or under⁵.

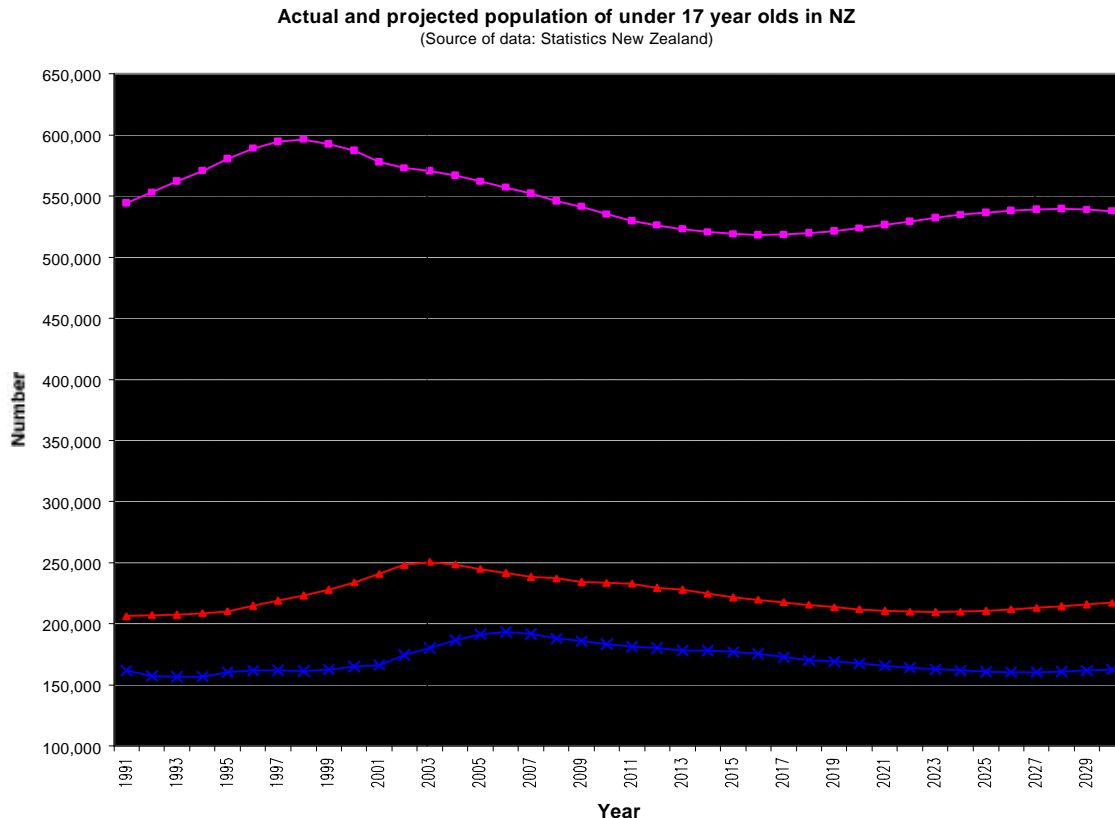
New Zealand has for many decades been subject to trends of internal migration from rural to urban areas, and from South to North. In the 2001 Census, 86% of New Zealanders lived in urban areas, with 29% of the total population living in the Auckland urban area⁶. At 30 June 2002, 76% of all New Zealanders lived in the North Island⁷.

New Zealand has a bi-cultural “constitutional” heritage, with a growing multi-cultural flavour. 8 out of 10 people identify themselves as European, 1 in 7 as Māori, 1 in 15 as Pacific Islander, and 1 in 16 as Asian⁸.

Overall, New Zealand has an ageing population. In September 2003, half of the population was over 35, with 1 in 8 people over 65 years of age⁹. It is predicted that by 2051 half the population will be 45 or older and one quarter will be over 65 years old¹⁰.

In 2003, “young persons” (aged 14-16) comprised 2.3% of New Zealand’s population (92,190 individuals in a total population of 4,001,000). By 2030, it is projected that the proportion of “young persons” in the New Zealand population will have fallen to only 1.8% (or 83,240 out of a total population of 4,698,200)¹¹. However, certain ethnic groups are still characterised by relative youth: 3 in 8 Māori and 2 in 5 Pacific Islanders are under 15 years of age¹².

The graph below illustrates recent population trends of New Zealand’s young people (up to 17 years of age). **Note:** the ‘bulge’ until 2007. The next four years will be characterised by a significant increase in young people in New Zealand.



3. The Jurisdiction of the NZ Youth Court

The Youth Court is a division of the District Court. 48 of the current 120 District Court Judges are designated as Youth Court Judges. Given the significant diversion rates (see heading 6, following), none need to sit full time in the Youth Court.

Youth Court jurisdiction is established primarily by reference to age (14, 15 and 16 year olds falling within the jurisdiction of the Court), but also in respect of the type of charge; some charges are excluded from Youth Court jurisdiction, either absolutely or conditionally.

The age of criminal liability in New Zealand is 10¹³.

A “child” is defined as someone aged under 14. A “young person” is defined as someone aged 14 or over, but under 17 (and does not include any person who is married)¹⁴.

Whether a person is a child, young person or adult for the purposes of the New Zealand Youth Justice system is determined by their age at the time of offending.

3.1 Child Offending (10, 11, 12 and 13 year olds)

The only criminal offences with which a child can be charged are murder and manslaughter¹⁵. In such (rare) cases, the charges are laid in the Youth Court and the preliminary hearing held there¹⁶. If there is sufficient evidence to proceed to a full trial, the matter is then transferred to the High Court.

In all other cases of child offending, the offending must be dealt with in the Family Court. This reflects a philosophical assumption that children who offend must be viewed in the context of their family environment (or lack of it) and should not be solely held accountable and punished as if they were fully responsible individuals. There is considerable debate in New Zealand as to when “children” ought to be considered old enough to face the consequences of criminal offending entirely on their own. There is pressure to reduce the age to 12 for all very serious offences.

When a child commits offences the nature, number or magnitude of which give serious concerns for the wellbeing of the child, an application may be made to the Family Court for a declaration that the child is in need of care and protection¹⁷. Before such an application may be made, a Family Group Conference must be held¹⁸. At a Family Group Conference (if the parties can agree), a plan will be put together to address the child’s offending (the deed) and the causes of it (the need).

The Family Court, in dealing with child offenders, has a much wider array of orders and responses it can make than in the Youth Court. For instance, the Family Court (but not the Youth Court) has power to make custody and guardianship orders, and also counselling orders, in respect of parents, guardians and any person who is made the subject of a restraining order in respect of a child.

3.2 Youth Offending (14, 15 and 16 year olds)

A young person can be charged with any criminal offence and almost all types of offence must be brought before a Youth Court to be dealt with¹⁹. Once a young person turns 17, any offence he or she commits must be dealt with in the adult Courts.

If a young person commits murder or manslaughter, the preliminary hearing takes place in the Youth Court²⁰ and, if there is sufficient evidence to proceed to trial, the matter must be determined in the High Court.

If a young person commits a purely indictable offence, which would have to be dealt with by a jury in the adult Court (for example, sexual violation or aggravated robbery), or if he or she elects trial by jury, the preliminary hearing takes place in the Youth Court. If the young person indicates an intention to plead guilty at any stage, or if the Judge, having considered all the evidence, at the end of the preliminary hearing, is of the view that the matter can proceed to trial, then there may be an offer of Youth Court jurisdiction. If such an offer is made and accepted, the matter will proceed in the Youth Court within the specialist Youth Justice regime. If it is rejected, the proceedings will be transferred to the appropriate adult Court (i.e. the District or High Court).

The Youth Court has the power to convict and transfer serious young offenders to the District Court for sentence (including offenders who have been offered Youth Court jurisdiction, as above). In the District Court, the maximum penalty that can be imposed on an offender convicted in and transferred from Youth Court is five years imprisonment.

4. Youth Justice Principles

The New Zealand youth justice system is governed by an over-arching set of principles that reflect the policy shift brought about with the passage of the ground breaking Children, Young Persons and Their Families Act 1989. General objects and principles govern both State-intervention in the lives of children and young people, and the management of the Youth Justice system. Some of these objectives and principles were unprecedented at the time they were introduced into New Zealand law.

The main objects²¹ of the Act stress promoting the wellbeing of children, young persons and their families by:

- ?? providing services which are appropriate to their cultural needs and are accessible;
- ?? assisting families in caring for their children and young persons;
- ?? ensuring that young offenders are held accountable for their actions; and
- ?? dealing with young offenders in a way that acknowledges their needs and enhances their development.

These last two objects are key. They require all professionals working in the New Zealand Youth Justice system to focus on both:

- ?? **the Deed:** the offending, in particular the young person's need to take responsibility for his or her actions and their effect on any victims, and to be held accountable; *and*
- ?? **the Need:** the causes underlying a young person's offending, with a view to helping the young offender to become a responsible adult member of society.

In addition to the overall objectives of the Act, a series of general principles²² emphasise the need to:

- ?? involve the family, whanau, hapu and iwi in decisions, and have regard to their views (s5(a));

- ?? strengthen and maintain child/family relationships (s5(b));
- ?? consider both the welfare of the child and family stability (s5(c));
- ?? consider the wishes of the child or young person and give them such weight as is appropriate in the circumstances, having regard to age maturity and culture of the child or young person (s5(d));
- ?? obtain the support of the child and the family for outcomes (s5(e)); and
- ?? make and implement decisions in a time-frame appropriate to the age of the child or young person (s5(f)).

Specific principles governing the Youth Justice sections of the Act²³ emphasise that:

- ?? where the public interest allows, criminal proceedings should not be used if there is an alternative way of dealing with offending by a child or young person;
- ?? criminal proceedings should not be used for welfare purposes;
- ?? measures for dealing with offending by children or young persons should be designed to strengthen the family, whanau, hapu, iwi, and family group and to empower families to develop their own means of dealing with offending by their children and young persons;
- ?? children or young persons who offend should be kept in the community as far as possible, consonant with public safety;
- ?? a child's or young person's age is a mitigating factor in sentencing;
- ?? sanctions should be the least restrictive possible and aim to maintain and promote the development of the child or young person within his or her family, whanau, hapu, and family group;
- ?? due regard should be given to the interests of victims; and
- ?? the vulnerability of children and young persons entitles them to special protection during investigations and proceedings.

Notably, there is a focus on keeping young offenders out of Court and in the community. In New Zealand, the Police deal with 76% of youth offending through diversion/alternative action schemes.

New Zealand's Youth Justice principles emphasise the involvement/participation of families (including extended families) of young offenders in decision-making, and in the action then taken to address offending. The main way in which this requirement is met is through family participation in Family Group Conferences, as well as in Police diversion schemes and at Youth Court.

To some extent, the objectives and principles that govern the New Zealand Youth Justice system reflect current trends (and tensions) in juvenile and criminal justice practice in New Zealand, and throughout the English-speaking world:

- ?? disillusionment with aspects of the "welfare" approach, which held sway in the first seventy years of the twentieth century;
- ?? the separation of welfare and justice issues;
- ?? the endorsement of certain principles of "just desserts" (that is, proportionality, determinacy and equity of outcomes);

- ?? an emphasis on accountability and responsibility;
- ?? the protection of children's and young person's rights;
- ?? a preference for diversion from formal procedures;
- ?? de-institutionalisation and community based penalties;
- ?? a shift in resources from state agencies to the voluntary and private sector; and
- ?? the use of least restrictive alternatives.

The New Zealand model is a firm rejection of the “welfare” model referred to above, but it is not a purely “justice” model. It is better seen as a hybrid model, based on a justice approach, but going much further, for instance in its emphasis on offender, victim and wider family participation and consensus decision making (see heading 11, no. 1, following for further discussion of this point).

5. Is the New Zealand Youth Justice System a Restorative Justice System?

Since its inception, the New Zealand Youth Justice system has been hailed as an example of an effective restorative approach to offending by young people. However, the Children Young Persons and Their Families Act 1989, in particular the Youth Justice provisions of the Act, do not anywhere explicitly mention or use the terms “restorative justice”. Indeed, the concept of “restorative justice” was only embryonic when the Act was being discussed and passed into law (and restorative justice was not a phrase that featured in the debates about the new system at that time).

The following is a useful definition of restorative justice, by contrast to retributive justice²⁴:

“According to **retributive justice**, (1) crime violates the state and its laws; (2) justice focuses on establishing guilt; (3) so that doses of pain can be measured out; (4) justice is sought through a conflict between adversaries; (5) in which offender is pitted against state; (6) rules and intentions outweigh outcomes. One side wins and the other loses.”

“According to **restorative justice**, (1) crime violates people and relationships; (2) justice aims to identify needs and obligations (3) so that things can be made right; (4) justice encourages dialogue and mutual agreement, (5) gives victims and offenders central roles, and (6) is judged by the extent to which responsibilities are assumed, needs are met, and healing (of individuals and relationships) is encouraged.”

Some senior Youth Justice practitioners have observed that the New Zealand legislation does not explicitly require a restorative justice approach to be taken in order for it to be properly implemented and adhered to. Indeed, as His Honour Judge FWM McElrea, has noted:

“...it is essentially the practice of youth justice, as experienced by practitioners, that is restorative, rather than the legislation underlying that practice. (Sections 4-6 and s208 spell out certain objectives of the Act and principles to be applied in youth justice. These are partly restorative, but mostly reflect a narrower emphasis namely the strengthening of the relationships between a young person and his family, whanau, hapu, iwi, and family group, and enabling such group whenever possible to resolve youth offending – see the short and long titles of the Act and ss408 and 208(c)).”²⁵

Judge McElrea went on, however, to say that the partly restorative aspects of the Act should not be downplayed.

Judge McElrea has elsewhere analysed in detail the extent to which the New Zealand system of Youth Justice represents a new model of justice²⁶. His analysis may be summarised as follows:

Features of the New Zealand System Found in Other Systems of Justice

1. The New Zealand model retains the adversary system for the determination of liability.
2. It retains the option of sentencing by the Court, as occurs in a few cases.
3. It has important diversion objectives and clear parallels with other diversion systems.
4. The involvement of the victim is also nothing new, even in Western legal systems. Victim offender mediation schemes are common in Canada, the USA, and the United Kingdom. A number of ancient societies applied principles of reconciliation, reparation and community involvement – Hebrew, Māori and North American Indian to mention three. The centralisation of power under the modern nation state has largely undermined those principles.
5. The Youth Court model allows considerable flexibility for different attitudes about justice to be applied. Elements of deterrence, retribution and reform can feature in any FGC plan.

Features of the New Zealand System Not Found in Other Systems of Justice

- A. No other system of justice replicates the FGC as it operates in New Zealand. A unique combination of participants is the key to the new regime.
- B. In contrast to the New Zealand regime, most overseas mediation schemes involve the voluntary participation of both victim and offender.
- C. The Youth Court legislation in New Zealand applies across the board – to all young persons, in all parts of the country.
- D. The New Zealand system represents the first time a Western nation has enacted a legislative system of, essentially, restorative justice.

With regard to the last ‘feature’, Judge McElrea again noted that the New Zealand system is restorative in practice, rather than in the legislation that underpins it. He noted that this perhaps pointed towards a need to amend the law to better reflect the practice. The “partly restorative” aspects which Judge McElrea identified (and which he stressed should not be down played) are:

- ?? Section 4(f), which propounds the principle that young people committing offences should be “held accountable, and encouraged to accept responsibility, for their behaviour” and should be “dealt with in a way that acknowledges their needs and that will give them the opportunity to develop in responsible, beneficial and socially acceptable ways”. This emphasises accountability and membership of a wider community.
- ?? By making criminal proceedings a last resort (s208(a)), the Act encourages the solution to come from within the community.

- ?? A “welfare” approach is discouraged by stipulating (s208(b) and (f)) that criminal proceedings should not be instituted solely for welfare reasons, and that any sanctions should take the “least restrictive form” that might be appropriate.
- ?? Section 208(g) requires that “due regard” should be had to the interests of victims of offending and s251 establishes the right of any victim or his/her representative to attend every FGC.
- ?? Young offenders are intended to be kept in the community, so far as that is consonant with public safety (s208(d)).
- ?? The whole machinery of the Act that propels the FGC process is one makes possible a restorative approach to justice.

6. The Youth Justice Process

6.1 Options when Alleged Offending Detected

When the Police detect a young person in alleged offending, they have three options:

- ?? To give an on the spot warning or otherwise deal with the matter informally.
- ?? To deal with the matter by diversion/“alternative action”.
- ?? To arrest the young person.

6.2 Formal Warning

Police deal with 44% of cases of youth offending by issuing a formal warning, then releasing the young person. This is in keeping with the principle that young offenders should be diverted from the formal justice system wherever possible. It also reflects that nature of much youth offending (i.e. relatively minor).

6.3 Alternative Action/Diversion

If a warning is insufficient or inappropriate, then, given the statutory injunction in s208(a) of the Act not to issue criminal proceedings if there are alternative means of dealing with the matter and unless the public interest otherwise requires, the Police must consider a diversionary programme for the young person. About 32% of all offences are dealt with by alternative action. Diversion/alternative action is usually locally based, often involves members of the community, and is overseen by the Police Youth Aid division.

The limits of what may be used as a form of alternative action are the limits of the imaginations of those involved. The best Police Youth Aid workers spend considerable time and effort tailoring solutions that satisfy victims, prevent re-offending and re-integrate young people into their communities. Examples of the sort of measures taken might include:

- ?? A young person who has been involved in offending involving a motor vehicle may:

- ?? agree to write a letter of apology/“life statement” to the victim (to be approved by Police before it is sent);
 - ?? make a reparation payment towards the repair of the victim’s car; and
 - ?? take a defensive driving course (from which the young offender learns the value of working towards and achieving a goal).
- ?? A young person who joins in a group to steal from someone’s home while under the influence of alcohol may agree to:
- ?? listen to the victim’s account of how the offence affected him or her (where victims are willing to participate in this way, confronting a young person with the personal effects of his or her actions can have a profound and lasting impact, and often leads to acceptance of responsibility and remorse, which are the first steps towards a future without further offending);
 - ?? return any stolen property still in his or her possession, or help the Police to recover it;
 - ?? attend a programme for alcohol addiction (if this was a relevant factor); and
 - ?? produce a school project on how alcohol affects the body and the judgement.

6.4 Arrest

About 12% of all youth offending is dealt with by arrest. Unlike the situation with adult offenders, there are significant restrictions on the right of the Police to arrest a young person, when there is good cause to suspect that he or she has committed an offence. Under s214 of the Act, a young person can only be arrested:

- ?? to ensure the young person’s appearance before Court (e.g. where the young person refuses to give name and address details); or
- ?? to prevent the young person from committing further offending; or,
- ?? to prevent the loss/destruction of evidence or witness interference; and
- ?? where a summons would not achieve the above purposes.

However, where:

- ?? an offence is purely indictable; *and*
- ?? a Police officer believes arrest is required in the public interest,

there is no such restriction, the Police officer may make the arrest (provided he or she has good cause to suspect the young person of offending).

There are also significant limitations upon the Police questioning of young people.

Upon arrest, the Police may:

- ?? charge the young person, in which case he or she may be released with or without conditions to appear later in the Youth Court; or
- ?? in some situations, detain the young person in custody for longer than the standard 24 hour maximum, in which case he or she must be brought before the Court as soon as practicable.

If the young person is released without charge, as a matter of best practice, a charge should not be laid days, weeks or months later until a pre-charge Family Group Conference has taken place.

6.5 “Pre-charge” Family Group Conference

If the Police wish to charge a young person who has not been arrested, a “pre-charge” Family Group Conference (or ‘FGC’) must be convened to consider the matter. About 8% of all offending is dealt with in this way. Usually such an FGC will recommend a voluntary plan for the young person to undertake. If it is satisfactorily completed this will usually be the end of the matter. Alternatively, the FGC may recommend that a charge be laid or, if the FGC plan is not completed, then a charge may be laid in the Youth Court.

6.6 Police Voluntary Pre-charge FGC Where Young Person Arrested and Released

It is standard practice for the Police to voluntarily submit to a pre-charge FGC in a situation where a young person has been arrested, released and some days or weeks later the police wish to charge the young person with an offence. Technically, as there has been an arrest, there is no statutory obligation to do this, but it is permissible and is encouraged by Youth Court Judges.

6.7 Charge Laid in Youth Court

About 16% of all offending results in charges laid directly in the Youth Court, either as a result of an arrest, or following a pre-charge FGC.

When a charge is laid in the Youth Court, the young person is required to indicate whether the charge is “denied” or “not denied”.

If the charge is one where the maximum penalty exceeds 3 months imprisonment, as with adults, young people may elect jury trial²⁷. If jury trial is elected, the charge is dealt with as for a purely indictable (jury only) offence (see below).

6.8 Denied Charges: Defended Hearing as for Adults

If a charge is denied, the matter is the subject of a defended hearing, conducted in the normal adversarial manner as for adults, under the provisions of the Summary Proceedings Act 1957. If the charge is dismissed the young person is free to go. If it is proved in the Youth Court, then an FGC must be convened to consider sentencing options. The Youth Court will impose one of the orders set out in s283 of the Act (see heading 8, following, Formal Orders) or, in some cases may grant an absolute discharge under s282, whereby the Information is deemed never to have been laid.

6.9 Not Denied: Court Ordered-FGC

If the charge is “not denied” then an FGC must be convened. Around 98% of charges are “not denied”.

If the charge is “admitted” at the FGC, then the conference will usually formulate a plan for the young person to undertake. The plan should address both the “deed” and the “need”. That is, the young person should be held accountable for the offending but a comprehensive, rehabilitative plan should be formulated to prevent further offending and to allow the young person to develop in a socially beneficial way without further offending.

The plan will then be presented to the Youth Court, which in about 95% of the cases is accepted, and the case is adjourned for the plan to be completed.

If the plan is satisfactorily completed then the young person is often absolutely discharged under s282 of the Act.

Sometimes the FGC may recommend formal orders being made under s283 of the Act, or on occasions, such formal orders are necessary because of the young person’s failure or inability to complete an agreed FGC plan.

A Court-ordered FGC may recommend, in addition to any other recommendations, that a formal Police caution be given to the young person.

6.10 Family Group Conferences

Family Group Conferences are the lynchpin of the New Zealand Youth Justice process. As above, they must occur before Police may lay charges (around 35% of FGCs are held for this purpose) and the Court must order one in every case where charges are “not denied” (the most common type of FGC, around 55% are held for this purpose). In addition, FGCs must also be convened when:

- ?? Police believe a child offender needs care and protection.
- ?? A young person denies a charge, but, pending its resolution, the Youth Court orders the young person to be placed in CYFS or Police custody.
- ?? A charge is admitted or proved in the Youth Court and there has been no previous opportunity to consider the appropriate way to deal with the young offender.
- ?? Any other time a Youth Court considers it necessary or desirable (for example where the Youth Court is considering offering jurisdiction to a young person charged with a purely indictable offence).

See heading 7, following, Family Group Conferences, for further detail.

6.11 Purely Indictable Procedure, or where Jury Trial Elected

Purely indictable charges are not within the jurisdiction of the Youth Court other than for the holding of depositions/a preliminary hearing.

Youth Court jurisdiction may be offered by the Youth Court at any stage prior to or during depositions if a young person indicates a desire to plead guilty²⁸, or at the conclusion of depositions if the Youth Court Judge considers there is sufficient evidence to put the young person on trial²⁹.

If the young person elects Youth Court jurisdiction, then the charge remains in the Youth Court and is dealt with entirely according to Youth Court procedure. Like any other charge in Youth Court, the most serious sentencing option available to Youth Court, following the charge being “proved”, is for a conviction to be entered and the matter to be transferred to the District Court for sentence. In that case, the maximum sentence is five years imprisonment.

6.12 Care and Protection Issues

If the charges against a young person, properly laid in accordance with Youth Justice principles, indicate that the young person may be in need of care and protection (as defined in s14 of the Act), the matter may be referred to a Care and Protection Co-ordinator (social worker) and the proceedings adjourned until the matter can be resolved by use of the care and protection provisions of the Act. In this case the matter may be discharged under s282 of the Act.

6.13 Miscellaneous

The Media

The Youth Court is closed to the public, but the media may attend as of right³⁰. There is automatic name suppression, and reporters must have permission from the Youth Court Judge before they may publish any record of the proceedings. There are exceptions for professional and research reports³¹. Generally, Youth Court Judges encourage media attendance at hearings and invariably give leave to report, except where (rarely) fair trial or personal safety issues outweigh the public interest in reporting.

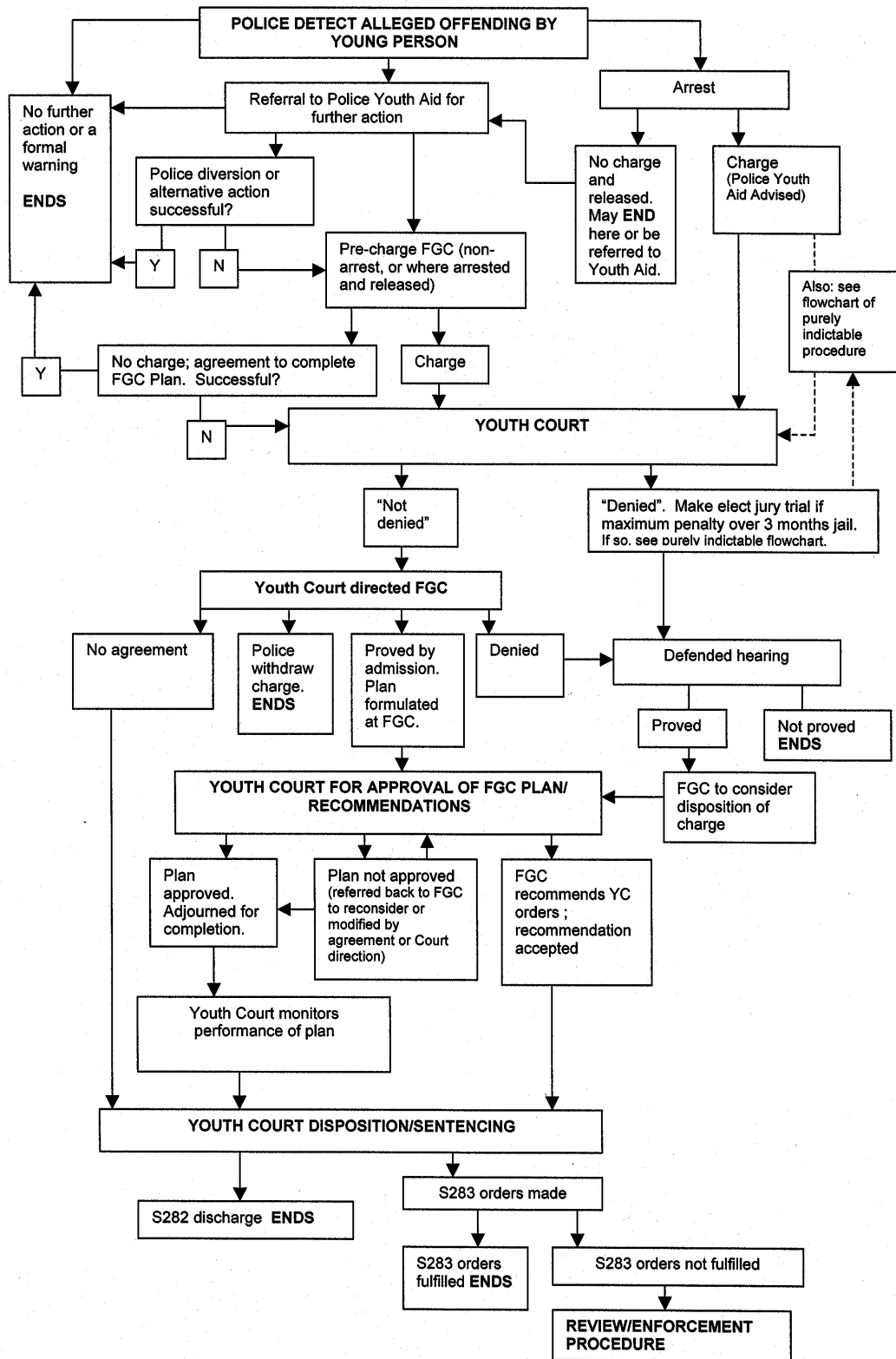
Youth Advocates

Every young person is entitled to legal representation by a Youth Advocate (a Court-appointed lawyer paid for by the state³²). Young people have the right to retain a lawyer of their choosing, rather than being assigned a Youth Advocate, but, in almost all cases in practice, Youth Advocates are used (see heading 11, no. 10 for further detail).

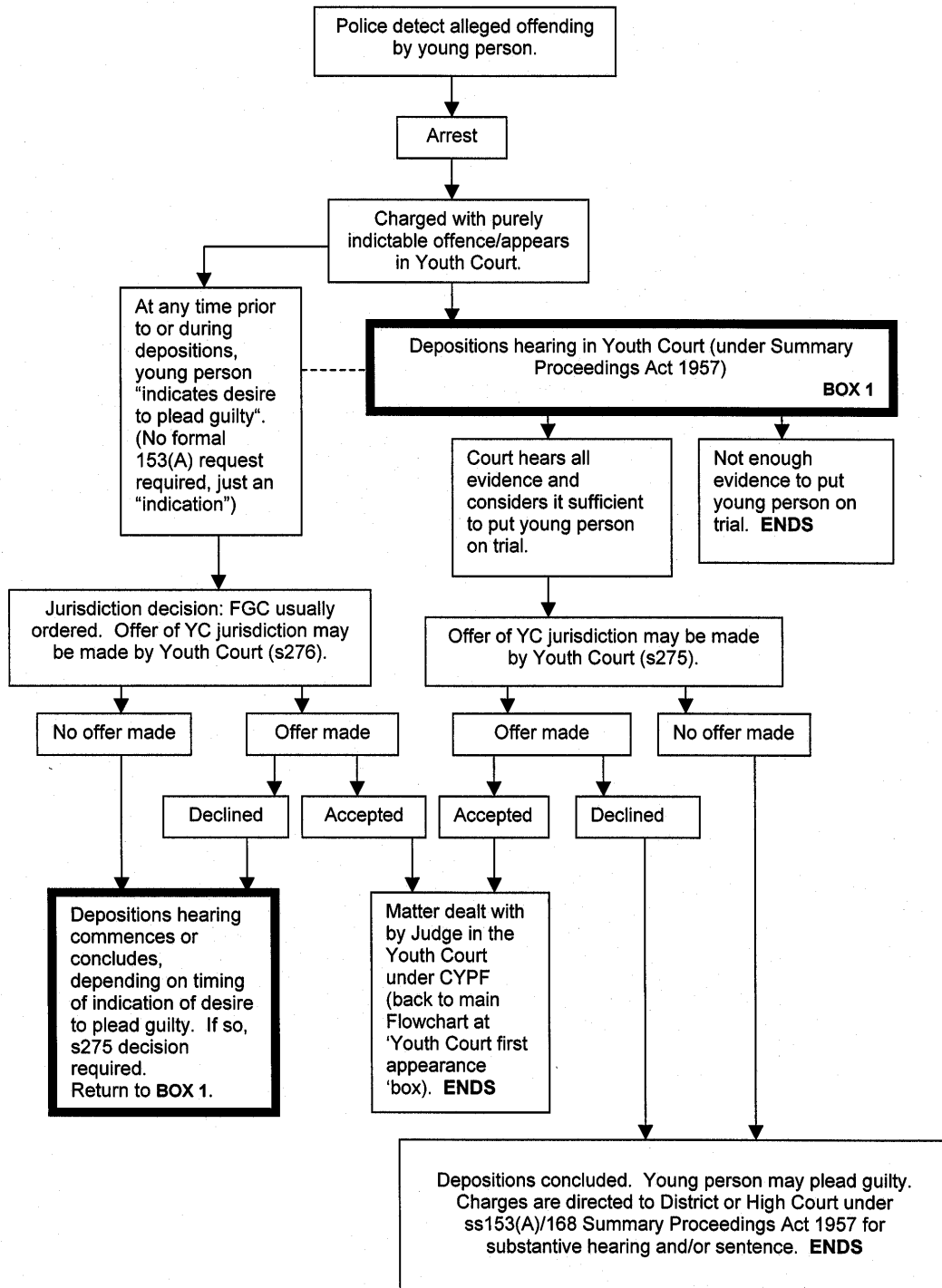
6.14 Youth Court Process Flow-charts

On the following pages are two flow-charts depicting the processes of the New Zealand Youth Court in general, and purely indictable, matters.

FLOWCHART OF YOUTH COURT/ YOUTH JUSTICE SYSTEM



**YOUTH COURT PROCESS
PURELY INDICTABLE OFFENCE OR ELECTION OF JURY TRIAL**



7. Family Group Conferences

The Family Group Conference (or 'FGC') is the lynch-pin of the New Zealand Youth Justice system. It is the practical mechanism by which effect is given to the principles that:

?? young persons and their families should be involved in decision-making in response to young persons' offending; and

?? the impact of offending on victims, and their interests, should be taken into account.

The ultimate aim in any case is to reach a group-consensus and 'just' outcome (i.e. an outcome which both holds a young offender accountable and aims to reduce re-offending).

7.1 **Types of FGC and decisions that may be made at each**

There are 6 types of FGC. For each, a different set of considerations need to be addressed and different decisions made. The sort of decisions to be made at an FGC will depend on its purpose. The functions of the various FGCs are proscribed by statute³³. In addition, the Court may direct an FGC to turn its mind to certain issues (for example, whether or not the Court should offer jurisdiction to a young person in an FGC ordered by the Court).

1. *Child offender care and protection conference*

If the Police believe, after inquiry, that an alleged child offender is in need of care and protection, he or she must report this to a Youth Justice Co-ordinator (or 'YJC'). YJCs are employees of the New Zealand Government's Children Young Persons and Their Families Service (or 'CYFS') and are often qualified Social Workers.

The YJC and Police must consult, after which, if the Police believe an application for a declaration of care and protection is necessary in the public interest, an FGC must be held³⁴ to address the child's offending.

At a care and protection FGC, the group must determine whether the offence is admitted, and, if so, what steps should be taken, including whether a declaration that the child is in need of care or protection should be filed in the Family Court³⁵.

2. *Intention to charge FGC*

We have already discussed this type of FGC, which is required whenever a young person is alleged to have committed an offence and has not been arrested (or has been earlier arrested and released) and the Police intend to lay charges. The Police must first consult a YJC. If, after consultation, the Police still wish to charge the young person, an FGC must be convened³⁶.

This is the second most common type of FGC, and accounts for between one third and one half of all FGCs annually.

At an intention to charge FGC, the group must determine whether the charge is admitted and, if so, decide what should be done. This may include completion of an agreed plan, which if successful will be the end of the matter, or a decision that a charge should be laid in Court³⁷.

3. *“Custody conference” FGC*

Where a young person denies a charge, but, pending its resolution, the Youth Court orders the young person to be placed in CYFS or Police custody, an FGC must be convened³⁸.

At a custody FGC, the group must decide whether detention in a CYFS secure residence should continue and where the young person should be placed pending resolution of the case³⁹.

4. *Court directed FGC: “not denied”*

Where a (non-purely indictable) charge is “not denied” in the Youth Court, the Court must direct that a FGC be held⁴⁰. “Not denied” is a somewhat odd, but very useful, mechanism. It triggers an FGC without the need for an absolute admission of culpability. It may indicate the young person’s acceptance that he or she is guilty of something, although not necessarily the charge as laid. Invariably, in such cases, the details can be resolved at FGC.

This is the most common type of FGC and accounts for at least half of all FGCs.

At a Court ordered FGC, the group must determine whether the young person admits the offence, and, if so, what action and/or penalties should result⁴¹.

5. *FGC as to “orders” to be made by Youth Court*

Where a charge is admitted or proved in the Youth Court and there has been no previous opportunity to consider the appropriate way to deal with the young offender an FGC must be held⁴².

At a penalty FGC, the group must decide what action and/or penalties should result from a finding that a charge is proved⁴³.

6. *FGC at Youth Court discretion*

A Youth Court may direct that an FGC be convened at any stage in the proceedings if it appears necessary or desirable to do so⁴⁴.

An example of where this might happen would be where a young person indicates a desire to plead guilty to a purely indictable charge and there is a possibility that Youth Court jurisdiction will be offered. An FGC would then be ordered to consider whether such an offer should be made. If the FGC recommends that jurisdiction should be offered, it will usually recommend how the Youth Court should dispose of the matter.

When the Youth Court exercises its discretion to order an FGC, it may also make directions as to the decisions to be made there.

In the case of an FGC to consider purely indictable charges, the group will be asked to decide whether Youth Court jurisdiction should be offered, and if so, whether the offence has been committed and what should be the result.

7.2 Who May Attend and Participate in an FGC?

Persons entitled to attend an FGC are:

- ?? The child or young person.
- ?? His or her parents, guardians and other family/whanau/family group members (and any support people they wish to bring).
- ?? The YJC.
- ?? The informant (in most cases this is the Police).
- ?? The victim (and any support people they wish to bring) or a representative of the victim.
- ?? Any Youth Advocate (a Court-appointed lawyer for the young person) or lawyer of the child/young person.
- ?? A Social Worker where CYFS has a statutory role in relation to the guardianship/supervision/custody of the young person.
- ?? Any lay advocate.
- ?? Any other person all the parties agree may attend.

Attendance is a right, not an obligation. Any of these people may choose not to attend. The YJC has an implied obligation to be there in order to facilitate the conference.

A young person does not have to attend an FGC, but it is rare for one to proceed without a young person present. A fundamental element of most FGCs is the young person's admission to the offence. Without this, it is not possible to formulate a meaningful plan.

7.3 General Procedure at FGC

The participants regulate the procedure at any FGC⁴⁵. There is, therefore, considerable variation in practice at FGCs. However, the process generally involves:

- ?? A welcome by the YJC.
- ?? Introductions/mihi, and karakia (prayer).
- ?? An explanation of the procedure by the Youth Justice Co-ordinator.
- ?? The presentation of the summary of facts of the offence by the Police.
- ?? An opportunity for the young offender (with help from his or her Youth Advocate or lawyer) to comment on the accuracy of the Police statement.
- ?? A formal admission by the young person.
- ?? An opportunity for victims (or their representatives) to present their views if the offender admits the offence.
- ?? A general discussion of possible outcomes.
- ?? A discussion of options among the offender's family.
- ?? General negotiation and the formulation of a plan, response or outcome by the FGC participants.

?? Agreement from participants.

?? Recording of the agreed plan and closure of the meeting.

The young person's family (and their supporters) may deliberate in private during an FGC and may ask for the meeting to be adjourned to enable discussion to continue elsewhere.

Professionals play a low-key role. The YJC is a specialist facilitator, managing the process at the FGC. The Police usually describe the offence (and the impact of it on the victim if he or she does not attend) and will intervene if any subsequent proposal seems inadequate or excessive. A Youth Advocate, if present, advises on legal issues and protects the young person's rights; they are often involved in suggesting aspects of an FGC plan, and will certainly also express an opinion about any proposals that seem inappropriate or excessive. A Social Worker, if present by consent, will usually only provide background information on the young person and participate in supporting the plans of the family and the young person for the future.

7.4 FGC Plan

FGCs are empowered by the Act to make decisions, recommendations and plans as to how a young person should be dealt with⁴⁶. Successful FGCs (where agreement is reached) usually produce a plan of action. An FGC plan may include recommendations that:

?? proceedings continue or discontinue;

?? a formal Police caution be given;

?? a declaration be made that the young person is in need of care and protection;

?? appropriate penalties be imposed; and/or;

?? reparation be paid to the victim of the offence⁴⁷.

FGC plans must reflect the principles laid down in the Act⁴⁸. Beyond that, the FGC is free to do what it wants in a plan. Creativity is to be encouraged.

7.5 No Agreement

If participants at an FGC cannot agree on a way of dealing with a young offender, the fact of non-agreement is reported back to the Youth Court by the YJC and the Court may either deal with the young person in whatever way it deems appropriate or may order the FGC to be reconvened to consider a suggested course of action.

If there is agreement on some, but not all, issues, the Youth Court may be asked (if the parties all agree to this) to approve the agreed matters and resolve the outstanding issues itself.

7.6 Bottom Lines

Participants must come to an FGC fresh, without any preconceived “bottom lines”. If the Youth Court is informed of any participant trying to force others into a corner with immutable, pre-fixed views, it may order that an FGC be reconvened and direct the offending participant to be more flexible.

7.7 After an FGC

The Youth Court must consider every FGC plan presented to it⁴⁹. It may then adopt a plan, but it is not bound to do so. It may require an FGC to reconvene to modify a plan, or it may make orders of its own.

Where an FGC reaches agreement, the FGC plan will almost always be accepted, unless it is clearly impracticable or clearly inconsistent with the principles of the CYPF Act, or so extreme or so lenient as to lack general parity with outcomes in respect of similar offences.

In some cases, an FGC plan may go beyond the matters that should be dealt with in an FGC (according to the CYPF Act) and the Youth Court will, consequently, make decisions as to what it will accept and endorse.

An FGC plan is binding when agreed to by all participants and, when relevant, by the Court.

The Youth Court may accept an FGC plan but exercise its residual discretion to impose additional orders. It may, for example, impose a fine or direct community work⁵⁰.

If an FGC plan is successfully completed, the Youth Court is able to order a discharge either:

?? with the charge remaining on record (s283(a)); or

?? an absolute discharge, as if the charge had never been laid (s282).

Which of the two types of discharge is granted will depend on the nature of the offence and the young offender’s response.

8. Formal Orders Available to the New Zealand Youth Court

The Youth Court is empowered to deal with young offenders in a number of ways.

8.1 Section 282 Absolute Discharge

It may, where appropriate, discharge the information as if it had never been laid⁵¹ – i.e. grant an absolute discharge. The Court may, at the same time, impose formal orders such as payment of reparation or a fine (s282), which are expunged from the young person’s record upon completion.

8.2 Orders Under Section 283

Alternatively, the Court may impose a formal order under s283. The formal orders available to a Youth Court are⁵²:

- ?? discharge (with a record of the charge remaining on the young person's history for use in any future proceedings; such a discharge may be made alongside some of the following orders);
- ?? admonishment (carried out by the Judge in Court, and seldom if ever resorted to);
- ?? order to come up for further action if called on (in effect, this gives the Youth Court the power to recall a young person at any time in the 12 months following the making of the order if there is any further offending, at which time it may impose further formal orders);
- ?? contribution to costs;
- ?? fine;
- ?? reparation;
- ?? restitution;
- ?? forfeiture of property;
- ?? disqualification from driving;
- ?? confiscation of a motor vehicle;
- ?? supervision (usually by CYFS);
- ?? community work;
- ?? supervision with activity (where the young person is placed under legal supervision of an agency and must carry out an agreed programme of activity within agreed timeframes);
- ?? supervision with residence (where the young person is detained for up to 3 months in a secure residence operated by CYFS, followed by a 6 month period of supervision);
- ?? conviction and transfer to the District Court for sentence (where a conviction is entered and the young person is transferred to the adult Courts where he or she may be subject to any sentence available in adult proceedings for the same offence; this can include up to 5 years imprisonment, depending on the charge). This order is subject to the young person being 15 or older. **Note:** There is an unresolved issue as to whether the relevant time for assessing this age requirement is the time of the offending – so that an offender who was 14 at the time of the offending could not be made subject to the order, even if he or she was 15 or older at the time of sentencing – or at the time of sentencing.

9. Youth Offending Statistics – Putting the Headlines in Context: “Lies Damned Lies and Statistics”

9.1 Introduction

The following are two newspaper headlines that are typical of front page news stories:

“There are a number of children running about the streets of Dunedin without the control of parents. If the government does not take them in hand they will become members of the criminal class. Youth offending is out of control.”

And the second headline:

“There is a definite relationship between the increase in the number of children on the streets and the increase in juvenile crime.”

The first statement is from the Otago Daily Times, 1884. The second statement was made in 1886⁵³. The point is that every generation compares “today’s” young people with a supposed previous golden age. The past is idealised: “no one has had it as tough as we have it” is the familiar catch cry of those involved in Youth Justice. In fact, every generation tends to have its particular difficulties and challenges posed by young offenders.

In the debate within New Zealand about youth offending, there has been inadvertent reliance placed on selected statistics that can give a very misleading picture. This picture may then be painted for the public by the media in shocking news headlines that lead to calls for fundamental change, increased penalties, lowered age of criminal responsibility and assumptions that “the system is failing”.

It is vital, then, that the real position, as best we know it, is made clear so that sensible and informed discussion can take place.

Despite a lack of a centralised system of collection and analysis of statistics about youth offending in New Zealand (one of the weaknesses of our system; see heading 12, following), the following can be said about “the real position”.

9.2 Offending Attributed to Under 17 Year Olds Has Increased Over the Last 12 Years, But Much Less So Over the Last 5 Years

?? The total number of resolved offences attributed to under 17 year olds has increased from 33,500 in 1989 to 46,258 in 2000/01, but there has been only a slow increase over the last 5 years⁵⁴. It should also be noted that this is not the same figure as the number of individual offenders and does not take into account population growth.

?? Similarly, the apprehension rate (per 1,000 population) for 14–16 year olds increased from 148.2 in 1992, to 182.8 in 1994, but has remained relatively unchanged since. It was 184.5 in 2001. More strikingly, the apprehension rate for 10–13 year olds has remained relatively static, being 46.5 in 1992 and 46.2 in 2001⁵⁵.

?? The number of charges processed in the Youth Court has increased from 8,674 in 1990/91 to 14,253 in 2000/01, but again has remained relatively static in the past 5 years and decreased last year⁵⁶.

?? The number of offenders (per 10,000) in the Youth Court has increased from 139 in 1990/91 to 199 in 2000/01, but, similarly, has been much more stable in recent years⁵⁷.

Generally, during the last 5 years there have been relatively small increases in offending by under 17 year olds, and the trends have been relatively stable.

Police apprehensions of children and young people aged between 10 and 16 increased by no more than 4.8% between 1996 and 2001 (a period when the total population in that age group rose more than 8%)⁵⁸.

9.3 Offending By Under 17 Year Olds Has Remained a Relatively Static Proportion of Total Offending Over the Last 10-12 Years

Under 17 year olds account for about 22% of total offending.

This figure has not significantly changed over the last decade. In other words, while offending by under 17 year olds has increased, it has not increased at any greater rate than adult offending⁵⁹.

In fact, offending by under 17 year olds in the 2000/01 year was a slightly lower percentage of overall crime than in the 1999/2000 year⁶⁰.

Debate about increasing youth crime should take place in the context of all crime increasing.

9.4 Only a Small Percentage of Offending by Under 17 Year Olds is "Serious" Offending

?? Just over 50% of the offences attributed to young people are dishonesty offences.

?? 20% of all offences attributed to young people are shoplifting.

?? Property damage is the next largest offence (about 1 in 7 offences).

?? Nearly half the offences committed by under 17 year olds and recorded by the Police in a study in 2000/01, were rated by the Police as of minimum seriousness (these were mostly property and dishonesty offences involving goods of less than \$100 in value).

?? Violence makes up 9–10% of all offences, and has done so since 1994.

?? Drug offences, anti-social behaviour and property abuse each made up about 1 in 20 offences⁶¹.

9.5 Is Violent Offending by Under 17 Year Olds Increasing?

Yes, and no. Violent offending attributed to 14–16 year olds has increased since 1991 but only slightly since 1995.

Apprehensions by the Police of 14–16 year olds for violent offences increased from 104 per 10,000 of the population in 1991 to 196 in 1995, and has increased only slightly since then to 210 in 2001⁶².

The number of serious offences for 14–16 year olds has remained reasonably static over the last 5 years. For instance, there were 354 robberies by 14–16 year olds in 1995 and 310 in 2000⁶³.

Violent offending attributed to 10–13 year olds peaked in 1997, but has decreased slightly since then. Apprehensions for 10–13 year olds for violent offending increased from 17 per 10,000 of the population to a peak of 47 in 1997. They were reduced to 45 in 2000. Robberies increased from 66 in 1994 to 77 in 2000⁶⁴.

It should be noted that over the last decade, the total number of violent offences recorded by the Police in New Zealand has increased. For instance, the rate per 10,000 of violent offences committed by 31–50 year olds increased more than for 14–16 year olds.

It may be that society is becoming less tolerant of violence and that there are more complaints made. Whatever the reason for the increase, an important question is “why is our society as a whole (not just young people) apparently becoming more violent?”

Also the increase in violent offending does not represent any significant change in the percentage of young people involved in violence, which has fluctuated from 11 to 13% of all offences recorded by the Police.

Moreover, in the Police diversion study, mentioned at heading 6, prior, 56% of the violent offences were not rated by the Police as of medium or greater seriousness.

However, front line Police officers and social workers believe that the relatively stable figures mask the significant trend that the violence is becoming more profound and serious.

9.6 Is The Age at Which Under 17 Year Olds Start to Commit Violent Offences Decreasing?

The Police certainly believe this to be the case.

The Police are also of the view that the type of violence is becoming more serious. This is the perception of many in the community.

However, there are simply not the figures to prove or disprove this. The lack of statistics upon which informed debate can take place is concerning.

What is clear is that over the last 10 years the proportion of young offenders in each of three different age groups under 17 has remained approximately the same:

- ?? Under 10 year olds form about 3% of under 17 year old offenders.
- ?? 10–13 year olds form about 24% of under 17 year old offenders.
- ?? 14–16 year olds form about 70% of under 17 year old offenders.

Also, the percentage of total offences which are violent, by age group, has remained stable over the last 7 years:

- ?? For under 10 year olds about 5–7%.
- ?? For 10–13 year olds about 7–9%.
- ?? For 14–16 year olds 10–11%⁶⁵.

9.7 Nearly 80% of Youth Offences are Dealt with by the Police by "Alternative Action" Through a Diversionary Approach, and do not Result in a Youth Court Appearance

- ?? Only 16% of cases are referred by the Police to the Youth Court. That is where the nature or amount of the offending is considered too serious to be dealt with by diversion.
- ?? A further 8% of cases are referred to a Family Group Conference for consideration as to whether a charge should be laid.
- ?? 76% of all cases are dealt with by diversion, written warnings or other community based approaches co-ordinated by Police Youth Aid⁶⁶.

9.8 The Number of Family Group Conferences for Youth Offenders has Remained Much the Same Over the Last Decade: About 6,000 per annum

- ?? There were 6,806 FGCs in 1994/95 when the figures were first computerised and 6,831 in 2000/2001.
- ?? Court ordered Family Group Conferences arising from charges laid in the Youth Court rose from 3113 to 3990 during that period.
- ?? Family Group Conferences convened before prosecution in the Youth Court dropped from 3693 to 2841⁶⁷.

9.9 Charges Processed in the Youth Court Have Increased Over the Last 10 Years, but Have Remained Stable in the Last 5 years and Dropped Last Year

- ?? The number of charges processed in the Youth Court in 1990/91 was 8674 (this is not the same thing as offenders, as one youth offender may face several charges).
- ?? The number of charges processed in the Youth Court peaked in 1999/2000 at 15,588.
- ?? The number of charges processed in the Youth Court dropped in 2000/01 to 14,253⁶⁸.

Recent media claims, therefore, that the workload of the Youth Court has tripled⁶⁹ are without foundation and wrong.

It should be remembered that only the most serious youth offending comes to the Youth Court. And only the most serious of those serious offences are transferred for sentence in the adult Courts. In the last ten years, though there have been fluctuations, there has been no overall change in the figure for transfers from Youth Court to the adult Courts for sentencing (254 young offenders were convicted in the District or High Court in 1991 and 253 were convicted in 2000⁷⁰).

9.10 Numbers of Young Persons in the Youth Court Have Dropped in the Last 2 years Even Though the Population has Increased

- ?? In February 2000, 728 offenders appeared in the Youth Court, but in February 2002, only 537 appeared.

?? There has been a significant decline in the Youth Court rolling 12-month volumes (of offenders), from 7602 in 2000 to 6947 in February 2002. It should be noted that this is still just under half the number of young offenders who appeared in the old Children and Young Persons' Court, which existed before the Children Young Persons and their Families Act, 1989, was introduced⁷¹.

9.11 There are Huge Regional Variations in Youth Offending Throughout New Zealand

Far from youth offending increasing, in some areas it has significantly reduced.

This is usually due to good local practice and co-operation between government agencies and the community, and particularly because of pro-active and creative policing by the Police Youth Aid section.

9.12 Recent Police Statistics Relied Upon by the Media can be Misleading

Police Statistics are based on "apprehensions" and are not offender based

?? An apprehension is not the same thing as a charge. There may be an apprehension without a charge being laid (for example: for breach of bail).

?? Also, Police apprehension statistics do not represent a count of individual offenders.

"Apprehensions" are not necessarily a reliable statistical indicator of Youth offending:

The number of apprehensions is heavily influenced by:

?? Police resourcing.

?? Increases in the number of constables.

?? Increases or decreases in offending being reported.

An increase in apprehensions does not necessarily mean that offending has increased. Police figures can be heavily influenced by Police policy and the targeting of certain types of offence.

Police Statistics, may include non-imprisonable traffic offences which do not come within the Youth Court jurisdiction

In using Police statistics, care should be exercised that any increase in "apprehensions" is not attributable to the increase in non-imprisonable traffic offences (such as careless driving; driving without a seat belt) that are not within the jurisdiction of the Youth Court.

9.13 Conclusion

Offending by young people should always be taken seriously and should concern any community. Many, but by no means all, young offenders are tomorrow's adult criminals.

A young person who offends should be held accountable, must make amends to the victim wherever possible, and be dealt with so that the risk of re-offending is reduced as far as is possible.

However, important and necessary recent public discussion about youth offending has been based on some misleading and incomplete statistics. It is important that the real position, as best we know it, is made clear so that sensible discussion can take place.

It has been rightly said that each generation unfavourably compares the young people of today with previous golden ages. However an analysis of the available statistics shows that the popular belief that youth offending is rapidly increasing and out of control is not actually accurate, and does not accord with the experience of those working with young people.

In short, while there have been very significant increases in youth offending since 1990, there has been relative stability in the last 5 years. The latest police apprehension statistics for the calendar year to 31 December 2001 show a drop in police apprehensions for 10-16 year olds from 43,732 to 41,916. The number of charges processed in the Youth Court has also dropped from 14,253 to 14,060. Similarly, the 2001 figure for the number of young offenders convicted in the District or High Court is 234, as compared to the 2000 figure of 253.

In no way should this alleviate concerns about recent, very violent offending, but, given the way in which youth crime is reported in New Zealand (and, doubtless, Australia and other countries), the actual figures would come as a surprise to most members of the public.

In general, there is room for cautious optimism as to the levels and trends of youth offending in New Zealand. The only reservation relates to a small number of "serious offenders" (discussed in heading 12, following), about 5% -10% of all youth offenders, who remain a real challenge for the system.

10 Lessons From the New Zealand Experience: Looking Back and Looking Forward to a Road Map for the Future

The theme of this Conference, "Looking Back and Looking Forward to a Road Map for the Future" demands a careful and balanced analysis of the strengths and weaknesses of the New Zealand system.

What can be learned from the New Zealand model, often considered revolutionary and world leading at the time of its introduction? More specifically, are there aspects of the New Zealand system which could challenge Australian Youth Justice processes?

These questions may not be for a New Zealander to answer. You are invited to draw your own conclusions from the following analysis, conscious that an "insider's" view is unlikely to be objective.

11 Ten Suggested Strengths/Advantages of the New Zealand Model

1. A "hybrid" model: neither "welfare" nor purely "justice"

While on the one hand the New Zealand model soundly rejects the flawed "welfare" approach of the 1920's -70's, on the other hand, neither is it a pure "justice model". There is certainly an emphasis on the best aspects of the justice model, such as due process, procedural rights of young

offenders, and proportionality of response. There is also recognition, however, of the limitations to the justice model, for example its assumption (applied to varying degrees around the world) that young offenders are “junior adults” who, if treated as independent young citizens, will be deterred by a “just deserts”/punishment-based approach.

The New Zealand model rests on the belief that young offenders are the product of, but still inextricably part of, a (wider) family, within which must be found lasting solutions. It directs diversion wherever possible; prioritises the strengthening of families; practices a restorative justice approach encouraging victim and offender participation; seeks community solutions; and emphasises minimising intervention by the State. Yet it still allows for punishment and, if necessary in the public interest, imprisonment.

The combination of objects and principles in the Children, Young Persons and Their Families Act 1989 create a unique hybrid model. This model avoids the polarities of a simplistic “welfare”/“justice” debate. At the least, it provides an antidote to the “tough on crime” or “adult time for junior crime” mantra, so increasingly popular, e.g. in the USA, as well as in sections of most other Western countries.

2. Treatment of “child offenders” is a care and protection issue

In the New Zealand system, offending by children (10,11,12 and 13 year olds) is seen as a “care and protection” issue involving a whole family. Other than for murder or manslaughter, under 14 year olds are not regarded as “mature” or “grown-up” enough to take full responsibility for their offending. Child-offending is dealt with in the Family Court, although the offences must still be proved to the criminal standard, and the Court must be “satisfied that the child knew either that the act or omission constituting the offence was wrong or that it was contrary to law.”⁷²

Upon a finding that the number, nature or magnitude of offence(s) committed by a child are such as to give serious concern for the child’s wellbeing, a declaration can be made that the child is in need of care and protection.

The Family Court has greater powers available to it in dealing with child offenders than the Youth Court does in dealing with youth offending. These include counselling and support orders made against the parents/guardians of the child. Such measures may be agreed to at an FGC, without the need for a formal Family Court hearing.

While there may be legitimate debate as to the age when offending by children should cease to be regarded as a care and protection issue, i.e., at what age they should be considered old enough to take full responsibility in their own right for their offending (some would argue for 12, or even lower), it is suggested that the underlying principle is sound.

There is no evidence to suggest that the New Zealand child offender practice, providing it is properly resourced, is not working. Child offending statistics show remarkable stability over the last 5 years, and important indicators such as violent offending have very slightly decreased in the last couple of years.

3. Statutory emphasis on, and success of, Police diversion/alternative action

In the public debate before the current Act was passed into law, there was great support for the principle that unless the public interest requires otherwise, charges should not be laid against a child

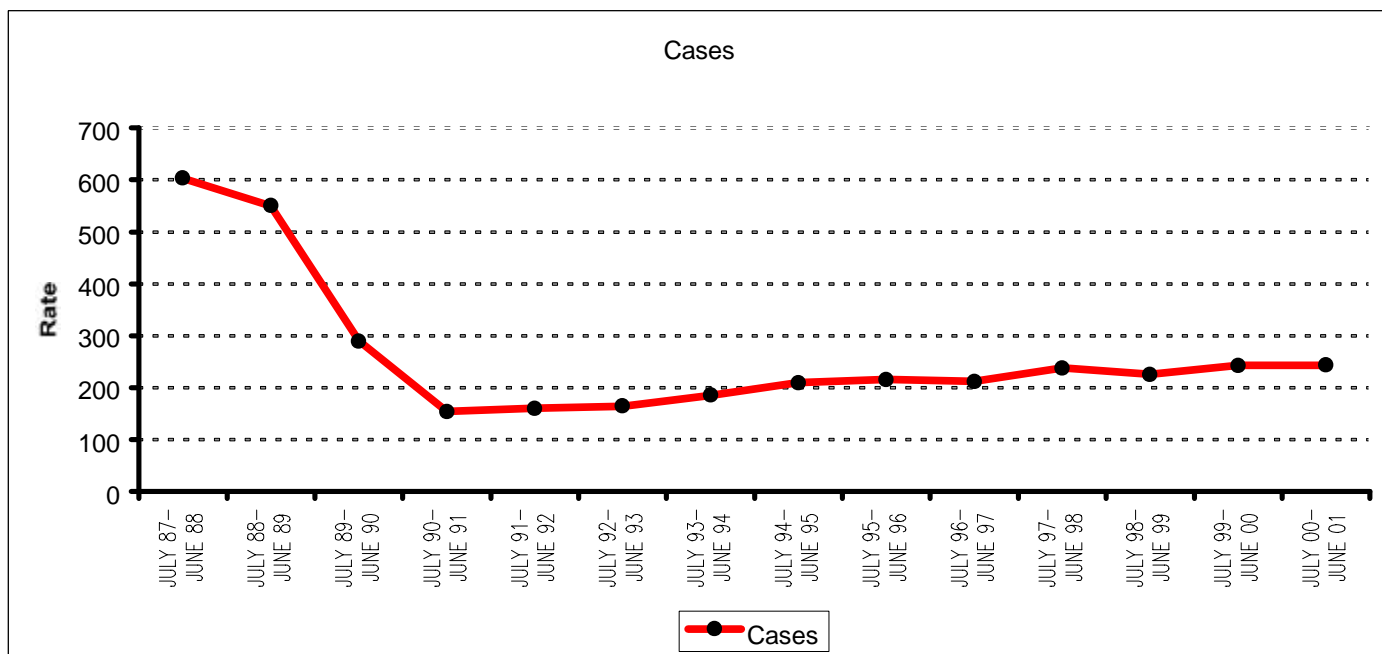
or young person if there is an alternative means of dealing with the matter (now s208(a) of the Act). However, there was strident opposition to the Police being given prime control over the exercise of this discretion (subject to points 4 and 5, following). It was said that the Police could not be trusted not to lay charges, and that community panels, for instance, would be better entrusted to make this sort of decision. In the words of the 1984 Working Party on the Children, Young Persons and Their Families Bill:

“The central duties of the Police are the prevention, detection and control of criminal behaviour. The normal outcome of successful Police action is a prosecution. To ask the Police to act as the main agency for keeping young people out of court creates a conflict in the various roles to be played by an individual Police Officer and may lead to conflict with his/her colleagues.”⁷³

Contrary to the doom and gloom predictions at the time the legislation was enacted, the reverse has proved the case. The specialist Youth Aid Division of the New Zealand Police, numbering about 160 officers, has bought into the ethos of the Act in a quite spectacular way. Diversion/alternative action rates have remained consistently high, between 75-80% of all cases. “Alternative action” or “diversion” initiatives are locally based, draw on community strengths, and are often very creative plans or programmes that directly respond to local youth offending.

This is a much under-estimated and unpublicised feature of the New Zealand Youth Justice System, and, as earlier observed, our system simply could not cope without the ongoing Police commitment to it.

Diversion Rates per 10,000 distinct cases in Youth Court aged 10–16 years; 1987 to 2001⁷⁴



4. Limitation on police power of arrest and questioning of children and young persons

The limitation of the Police power to arrest a child or young person without warrant is significant. Arrest is only justified to ensure appearance at Court, to prevent further offending, or to prevent

witness inference/evidence tampering. Arrest occurs only in about 12% of all cases of youth offending. The restrictions on arrest encourage consideration of diversion.

Further, there are strict provisions controlling Police questioning and interviewing of children and young persons, including that an independent representative or nominated person must be present at any interview, to support the young offender.

5. Prohibition on charging in non-arrest cases unless there has been “pre-charge” FGC

The restriction of the Police power to lay charges where there has been no arrest (or arrest and release with no charge laid soon after), unless there has first been a FGC, has acted as a real restraint on bringing young people to the Youth Court.

Pre-charge FGCs are convened after consultation between the Police and the YJC. They usually result in a plan or programme of action for a young person, and if the young person successfully completes this plan or programme, the result is that no charges are laid; the matter never comes to Youth Court. Pre-charge FGCs are, in effect, a diversionary mechanism. About 8% of all offending is dealt with in this way.

(For further discussion of pre-charge FGCs, and how they fit into the youth justice process, see headings 6 and 7, prior).

6. The “not denied” response as a trigger for a FGC

All charges which are “not denied” must proceed to an FGC. “Not denied” is an odd but very useful response. It unlocks the door for a Court directed FGC, without the need for a formal admission of guilt. It is possible, using this “plea”, for a young person to acknowledge culpability without 100% accepting the Police version of events. The FGC participants can discuss the matter in full, making any amendment to the charge or Summary of Facts as may be required.

7. The Family Group Conference as the “jewel in the crown” of the NZ system

The FGC is the “lynchpin” of the New Zealand system. It allows for a quite radical transfer of State power to the family, victim and wider community, subject, of course, to the Youth Court’s power to approve and monitor decisions and recommendations that are made.

As observed by Michael Doolan, former Chief Social Worker for the New Zealand Government’s Child Youth and Family Services:

“The Family Group Conference applies to all offenders between the ages of 10 and 17 whom the Police believe require a more definitive response than is permitted to them under the law. It is the only forum available for the management of a child offender (other than one charged with murder or manslaughter) and is the primary forum for dealing with young persons who offend. It brings together the child or young person who offends and their immediate family, members of the extended family and significant others [and the victim and supporters of the victim] to work with professionals to devise a plan for the management of the young person. Its aims are to keep young people within the context of their family and to give their wider family systems the power, the opportunity and the resources necessary to reassume their control of and influence on the young people.”⁷⁵

In particular the FGC allows:

- ?? The genuine involvement of victims. Victims are central to the process and are given a meaningful opportunity to express their views and contribute to outcomes involving the young person. Victims are key participants and the numbers of victims participating rose steadily during the 1990's. Victims now participate in 51% of FGCs⁷⁶.
- ?? Active participation by young offenders.
- ?? Direct, if not enforced, involvement of families, who are encouraged and empowered to take responsibility for the offending of a young person within their family group. "Family groups have proved capable of taking prime responsibility for their own young people despite initial scepticism about this."⁷⁷
- ?? Collaborative responses to youth offending.

The Youth Court and Police nearly always accept plans made at FGCs, and upon successful completion a s282 "absolute discharges" can be ordered.

8. Purely indictable cases may be dealt within the Youth Court jurisdiction

Rather than all serious cases immediately being directed into the adult justice system, under the New Zealand legislation, very serious or "purely indictable" offending by young people is addressed by first filing charges in the Youth Court and holding the preliminary hearing of the matter there. There is an opportunity prior to such hearings, on an indication of a desire to plead guilty, or at the end of such hearings, where there is sufficient evidence to take the matter to trial, for Youth Court jurisdiction to be offered to young offenders⁷⁸. Such an offer, if accepted, opens up the standard Youth Court procedure, including the FGC and the possibility of resolving the matter with input from the offender, victim and family members. It is possible, by going down the Youth Court route, that a young offender who would almost certainly be facing a lengthy period of time in prison if dealt with in an adult "tariff" Court for this sort of offending, may be able to turn his or her life around. If Youth Court jurisdiction is offered, it is still possible for a young person to be convicted and sentenced to up to 5 years in prison in the adult Courts, if all other options in the Youth Court fail. It is not a soft option, but a "last chance" for youngsters who may be able to step back from the brink of a ruined life.

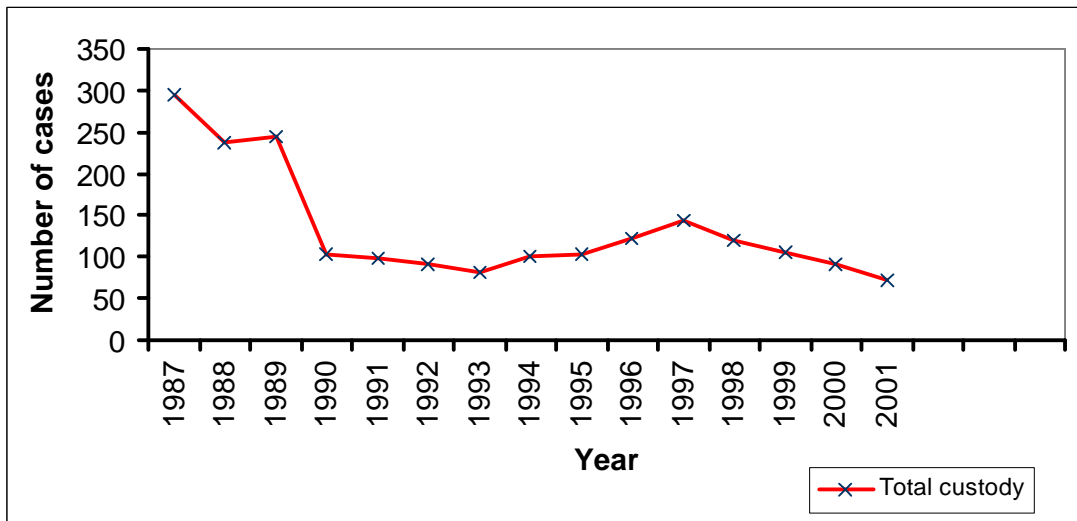
It should be noted however that the provisions governing "purely indictable" offences are needlessly complex. See the comments at the end of heading 11, following

9. Restriction on imprisonment and "de-institutionalisation" of young people

It is not lawful in New Zealand to impose a sentence of imprisonment in respect of an offence committed when a person is under 17 years of age, unless the offending in question was purely indictable⁷⁹. This restriction reinforces the principle that young people should be kept in the community (and out of the criminal justice system) as far as possible; as do the general principles governing the youth justice provisions of the Children, Young Persons and Their Families Act which emphasises that young offenders should be kept in the community so far as that is practicable and consonant with public safety (s208(d)), and that sanctions should take the least restrictive form that is appropriate in the circumstances (s208(f)(ii)).

Since the inception of the current system of Youth Justice in New Zealand, there has been a marked decline in incarceration of young people.

De-carceration: number of cases receiving custodial sentences: 1987-2001⁸⁰



In addition, there has been a huge reduction in the number of children and young persons in State institutions since the passage of the new legislation. The Department of Child Youth and Family Services maintains about 75 beds today for Youth Justice purposes, compared to the more than 1000 beds available in the 1980's. In the last 6 years or so, the pendulum has arguable swung too far, and more beds are required for Youth Justice (see following, heading 12, where this “weakness” of the system is discussed in more detail).

10. Designation of Youth Advocates to represent all young people

Every young person is entitled to legal representation by a Youth Advocate (a Court-appointed lawyer paid for by the state irrespective of means⁸¹). Young people have the right to retain a lawyer of their choosing, rather than being assigned a Youth Advocate, but, in almost all cases, Youth Advocates are used.

Youth Advocates are appointed if “by reason of personality, cultural background, training, and experience” they are “suitably qualified” to represent children or young people in Youth Court⁸².

A Protocol has been developed for appointing Youth Advocates, and this has resulted in a small group of highly specialist lawyers committed to the ethos and principles of the Act. It has made the administration of the Act and Youth Court proceedings much more efficient and effective – there is less debate of technical issues, and a greater commitment to getting to the heart of the matter and assisting young people to succeed within the system.

11.1 Conclusion

Youth crime has not increased as a proportion of total resolved offending since the passage of the Act. It has remained a very stable 22% of all offending since 1989, despite decreased resort to Court proceedings and a significant reduction in youth imprisonment rates.

12 Ten Suggested Weaknesses/Disadvantages of the New Zealand Model.

Many of the weaknesses identified below stem from a lack of resources. Others, such as the nature and needs of serious young offenders, are an inherent part of any Youth Justice system.

1. Insufficient secure Youth Justice residential beds

CYFS is responsible for providing secure residential facilities for young offenders. There are currently 75 secure Youth Justice residential beds available throughout New Zealand for young persons on remand, or subject to residential sentences, under the Youth Justice system. Professionals working in the system generally agree that this number is insufficient; there is a need for at least 19-32 more beds just to cope with current demand. There was a lack of careful forward planning in the late 1990's with the result that there is now a crisis.

The undesirable consequences of a lack of secure facilities include:

- ?? Young offenders being held on remand in Police cells. To the end of November 2002, 410 young persons had been remanded in Police cells for a total of 1037 nights. Maori are disproportionately represented. Police cell remands are at record levels. While the Act envisages police cell remands, the intent was surely for short term placements to cope with overflows, not a virtual parallel system of secure remand.
- ?? There may be subtle pressure to avoid "Supervision with Residence" orders. Whilst the number of residence orders is on the rise, the number of beds continues to be insufficient. It is possible (though highly undesirable) that social workers may begin to avoid recommending, and Judges may begin to avoid imposing, residential sentences, knowing that there will be limited room for young offenders to be placed.

A new residential facility is being built south of Auckland, with 15 extra Youth Justice beds. It will be available at the start of 2004. This will reduce the problem, but not resolve it.

A further 12 extra beds will be available with the completion, in August 2005, of a 32 bed residential facility in Christchurch. The facility is not in the region where it is most needed (the north of the North Island).

The high level of remands of young people in Police cells, and sometimes for quite lengthy periods, remains a blight on the New Zealand Youth Justice system.

2. Insufficient specialist Youth Aid Police

The number of specialist Youth Aid Police Officers is 160, by contrast to the total number of Police officers in New Zealand, 7,000. More officers are required, with specialist supervision, increased pay commensurate with their special expertise, and proper career prospects within the Police⁸³. In part the lack of Youth Aid personnel has been due to a culture in which Youth Aid is regarded as a "soft option" compared to front line policing (this is, thankfully, beginning to change). It has also been impacted by a lack of proper national support for Youth Aid operations from the Office of the Commissioner for Police. A comprehensive, and long-awaited, Police Youth Services plan will be released in February 2003.

3. Lack of good statistical information

There is no centralised collection of statistics and trends about youth offending in New Zealand. What we do know comes from a comparison of figures from Police, Child Youth and Family, Department for Courts, and the Ministry of Justice. Even then, the statistics are sometimes not comparable.

There is an urgent need for a more co-ordinated and "scientific" approach to the collection of statistics about youth offending, and for one agency to take a clear leadership role in this respect. The Children, Young Persons and Their Families Act came into force in late 1989 and most of the statistics date from soon after the commencement of that Act.

The Crime and Justice Research Centre (Victoria University, Wellington), and the Ministry of Justice have been responsible for most of the recent analysis, but they have been hampered by unsatisfactory data collection.

In a sense we box blind when it comes to working with young people. We need far better information and far better data as to what's working, where it's working, which regions are doing well and which aren't. There is also a need to develop a minimum data set for Youth Justice (a scoping exercise was undertaken by the Ministry of Social Development and completed in 2001, and this project is now being advanced through the Ministry of Justice).

It is to be hoped that with the establishment of new national structures for Youth Justice in New Zealand (and the emphasis in the Youth Offending Strategy on the need for proper statistical information about youth offending), this situation will improve markedly in coming years.

4. Systematic failings in Child, Youth and Family Services

Child Youth and Family Services (CYFS), which has the responsibility to deliver the Youth Justice provisions of the Act, has faced chronic and profound systemic problems, including:

- ?? A lack of clear leadership for Youth Justice.
- ?? Understandable, but unacceptable, gravitational drift of resources from youth justice to urgent care and protection work.
- ?? Lack of ring-fenced budget allocation for Youth Justice, or system difficulties in establishing whether money budgeted for Youth Justice within CYFS is actually spent on it.
- ?? An erosion of Youth Justice social work expertise.
- ?? Insufficient Youth Justice social workers.

To be fair, CYFS has also suffered from chronic under-resourcing in an environment of increasing demand. There is some clamour for a separate Youth Justice Department to be established. In the meantime, a recent Treasury led baseline review of CYFS advocated a full "capability review" as to its Youth Justice services by June 2004. Also a Youth Justice policy unit has been recently formed within CYFS.

5. Devaluation of the role of Youth Justice Co-ordinators

Over time, the role of the YJC has been gradually devalued. It now ranks no higher than social work pay scales. Originally it was anticipated that YJCs could delegate their functions to social workers, and would have social worker resources at their disposal. Pay parity with social workers now makes this difficult. There is no formal, external, specialist training for the YJC role. It is not seen as sufficiently pivotal to the process as was envisaged in 1989. In practice, however, the role of the YJC remains essential. A good YJC can be the difference between a successful FGC with a plan that is followed leading to an absolute discharge, or a prison sentence. A new position of national manager of FGC Co-ordinators is steadily improving the situation, but the quality of some personnel remains a difficult issue.

6. Problems with FGCs

As the FGC is at the heart of the Youth Justice system and provides a creative, collaborative means for resolving the majority of cases, it follows that, any problems with the resourcing or conduct of FGCs will severely impact on the Youth Justice system as a whole.

Time Frames Breached

Young people are highly attuned to adult inability to address their issues. They need to see swift, decisive action if they are to participate willingly and confidently in the system.

In some cases, statutory timeframes for FGCs are not being adhered to. The result is that any FGC held is invalid and, even more seriously, the Youth Court is denied jurisdiction over the young offender in question. Recently, this issue has been highlighted to YJCs and steps are being taken to ensure time-frame compliance.

Youth Court Judges also retain a residual power to dismiss charges when there has been undue delay. This is not a desirable outcome for anyone involved in the system.

Poor Attendance at FGCs

An FGC is only as effective as the Youth Justice Co-ordinator responsible for it. Youth Justice Co-ordinators have responsibility for organising the time, date and place for an FGC. They are also charged with arranging who will attend and ensuring that they are properly notified and enabled to be present. Most YJCs are diligent and dedicated. Some, however, let the system down. This may, in some cases, be attributable to the devaluation of the YJC role (see above).

In some cases, FGCs are being held where only the Police, YJC, young person and one parent (usually the mother) attend. This is not a “true” FGC:

?? The absence of the victim makes it impossible to harness the power of a direct, honest account of the effects of offending, and the consequent remorse of the young person. It is understandable that in some cases victims wish to wash their hands of a traumatic incident in their lives. In some cases, however, YJCs do not, or because of caseloads cannot, make sufficient effort to encourage a victim to attend. The minimum requirement would be phone contact, preferably a personal meeting. In some cases it

might be possible to substitute a victim's representative or a letter from the victim to be read out by the YJC. Victim attendance rates are currently around 50-55%.

?? The absence of more members of a young person's family than a single parent means that the FGC is not a real 'family group' conference, as such. The intention of the FGC model is that a young person's family, in the broadest sense, should be involved in resolving the consequences of his or her offending and in providing solutions. In some cases, a young person may simply have no extended family members who participate in his or her life on whom to call. However, where the absence of extended family is due to a lack of time or effort on the part of the YJC, the Youth Court will order that an FGC be reconvened to allow for better efforts to be made.

Poorly Prepared, Resourced and Monitored FGC Plans

YJCs are empowered to take steps to ensure that all the resources required by the FGC are available to it⁸⁴. This may include professional advisors (such as a psychiatrist or psychologist) or specific factual information in relation to programmes of activity the young person might undertake etc. A failure to properly prepare such resources could stymie the work of an FGC.

All too frequently FGC's are held without a proper risk and needs assessment having been conducted, as directed by CYFS internal policy. Would a surgeon perform an operation without a diagnosis of the problem?

An undesirable tendency in relation to FGCs noted by Youth Court Judges is the "sameness" of their plans. While young offenders may have certain similar characteristics that need to be addressed, they are all unique. The uniformity of plans sometimes coming out of FGCs (apology, reparation payment, community work) suggest something of a "cookie-cutter" mentality amongst the Youth Justice professionals involved. Youth Court Judges address this issue by sending plans back for a more creative application of participants' minds to the specific young person, and the offending, being dealt with.

Other difficulties with FGC plans include:

- ?? A lack of proper psychological, psychiatric, education and health assessments to identify the complex issues that a young offender may face.
- ?? A lack of resourcing such as comprehensive residential and other rehabilitative drug and alcohol programmes, youth forensic services, and special education services for the persistent truant or chronically non-enrolled young person.
- ?? Poor monitoring. Young people are sometimes being left to themselves to "get on with" plans they are uncertain how to commence or require encouragement to fulfil. The work does not end with an approved plan. While Police are good at enforcement of their own diversion schemes, the same is not always true with regard to FGC programmes, especially when a plan provides for a Youth Justice social worker to assist with aspects of a plan. There are insufficient social workers with too many plans to supervise.

Conclusion: FGC's have been very successful in ensuring accountability, i.e. that the offence "wrongs" are put right by the young person. Because of the above weaknesses they have been less effective at addressing the causes of re-offending.

7. Top end Youth Court sentences now considered inadequate

No research has been conducted into the effectiveness of the top end orders (Supervision, Supervision with Activity, Supervision with Residence) at preventing re-offending. There is a perception that recidivism is rife, especially with Supervision with Residence orders. This is not really surprising, given that the top end orders are made to address the behaviour of the most serious young offenders. There is a general perception amongst those in the system that Supervision with Residence orders do not work⁸⁵.

An order of “Supervision with Residence” has a maximum duration of 3 months. There is, however, an obligation for a young person to be released after 2 months if he or she does not offend while in custody, nor try to abscond⁸⁶. Even the maximum period of 3 months is generally seen by those involved in the New Zealand Youth Justice system as too short a period of time to turn around a serious young offender⁸⁷. The professionals who work with young offenders find 3 months just long enough to assess a young person’s needs and formulate a plan to address them, before he or she is released and the ability to take further action is restricted. The 6 months supervision that follows each period of residence needs to be more sophisticated and comprehensive than what is presently offered, especially given insufficient and over-burdened social workers.

8. Serious young offenders

As was emphasised in a seminal paper by Mike Doolan, former Chief Social Worker for CYFS⁸⁸:

“...concerns arose during the 1990’s that the [New Zealand system] was proving largely impervious to a small but significant group of young people, who were responsible for an amount of offending out of all proportion to their number. There was concern that public confidence in the law was at risk unless determined efforts were made to address what was seen as a significant problem in the system. In addition, it was thought that there should have been stronger evidence of a reduction in those young people who continue to offend into young adulthood than was apparent at the time.

Policy debate centred about whether there was a need for a differentiated response. The principle that welfare services should not be delivered through the criminal justice system (in other words, young people should not be locked up “for their own good”) seemed to have resulted in a denial of social services to those who needed them or a failure to identify the need for social services because of the effectiveness of the police diversion activity. Diversion from the criminal justice system may have become for many diversion from services.”

Doolan drew attention to the need to differentiate between “adolescent specific” offenders, often called “desisters”, and early onset offenders, also described in the literature as “life course offenders” or “persisters”.

In relation to “adolescent specific” offenders he noted:

“Most young people who offend can be regarded as adolescent specific offenders. They are young people whose lives are not markedly disordered but who through factors such as poor parenting, low socio-economic status or attraction to deviant peer models, or even none of these, embark on a period of offending in their early and middle teenage years, some of which can reach serious proportions. Such young people are best managed through

an approach that emphasises accountability for their offending, being made to address the impact of their offending and ensure appropriate reparation to their victims. As they are not seriously disordered, and do experience the range of emotions from which remorse and a willingness to put things right spring, they seem to be good candidates for a restorative justice approach. Adolescent specific offenders age out of lives of crime as they grow up, leave school, find work and form new peer relationships, particularly a sustained partner relationship. It is important that the management of this group is low-key and measured and does not involve responses that may confirm the young person in an adult offending career. The regime should be focussed on shutting down the offending cycle at the earliest possible time, but should also include increasing personal cost for increased offending.”

By contrast he noted that “early onset” offenders:

“... [are] a much smaller group, but may account for the majority of the crime committed by young people. These young people are characterised by major personal, social and family disorder. They typically lack developed feelings of guilt or regard for others and are quite egocentric and seekers of immediate gratification. While they should be held accountable for their offending, and their victims have a right to restitution and reparation, these processes are likely to have limited impact on the thinking and behaviour of these young people. A much more sophisticated policy and practice response is required.”
(emphasis added)

In New Zealand it is estimated that between 5-15% of young offenders account for 50-65% of all youth offending. In the writer’s experience, 85% are male and they present with a constellation of problems including family dysfunction, lack of a positive male role model, a failure to engage with the education system, chronic drug and/or alcohol addictions, psychiatric or psychological issues, with a disproportionate Māori representation (50%, compared to 16% of the population).

Objective confirmation of this profile has been provided by recent statistics from the Auckland Youth Forensic Service. All of the young people described below have offended and have an identifiable psychological or psychiatric problem. In addition:

- ?? 80-85% are male.
- ?? Maori & Pacific Islanders are over-represented.
- ?? 70% use cannabis; 60% use alcohol.
- ?? 50% lived in 3 different placements.
- ?? 30-40% had a Care and Protection history.
- ?? 20% were involved in gangs.
- ?? 70% were unemployed or not attending school (40% Reached 3rd form, 32% reached 4th form).
- ?? They had a history of offending of 5 - 10 prior offences.

Neither is this just a New Zealand problem. Serious young offenders challenge most countries. See, for instance, the recent figures for England and Wales. In an analysis of 4000 young offenders, in 2000/2001:

- ?? 83% male.
- ?? 70% from single parent families.
- ?? 41% regularly truanting.

- ?? 60% have special educational needs.
- ?? Over 50% use cannabis.
- ?? 75% smoke and drink.
- ?? 75% considered impulsive.
- ?? 25% at risk of harm as a result of their own behaviour (9% at risk of suicide).

The following comments by Doolan, justify re-publication in full in this paper.

“These young people can be identified and policies and services developed directly to meet their needs. The Children’s Research Centre of the American Council for Crime and Delinquency (ACCD 1995) distilled the following descriptors as predictive of the onset of life course persistent offending.

- ?? Offending or non-compliant behaviour starts at an early age.
- ?? There is evidence of a number of incidents over time.
- ?? There is evidence that the young person has hurt a victim.
- ?? There has been separation from parents for a significant time.
- ?? Substance abuse.
- ?? Truancy, school failure or school exclusion.
- ?? Association with peers showing similar patterns of behaviour.
- ?? Family criminality, violence or substance abuse.

These are seen to be universal variables and are usually accompanied by all or some of the following:

- ?? Hard to manage behaviour while under supervision or in public care.
- ?? A history of running away from home or care.
- ?? Abuse victimisation.
- ?? The absence of protective influences.
- ?? Mental Health issues.

Taken together (DSW 1997) these variables can be organised into four domains as a focus for policy and programme development. These are:

1. The nature of the young person’s family.
2. Peer influences on the young person.
3. The nature and frequency of offending or serious non-compliance.
4. School performance.”⁸⁹

There are a number of policy implications arising from the awareness that, generally, there are these types of young offender:

1. Sound assessment tools should be used at an early stage after initial offending to identify likely ‘serious young offenders’.
2. “Adolescent limited” offenders respond well to the current New Zealand system.
3. Much more focused approaches are required for serious young offenders. For them, regular repeat FGCs are counter-productive. Indeed, there is a legislative amendment proposed to limit ‘repeat’ FGCs to no more than 3 separate sets of offending.

4. The FGCs that are held must be ‘armed’ with sound assessments from a variety of domains: health, education, drug/alcohol, etc.
5. FGC plans must reflect effective intervention that, from a sound research base, can be shown to “work”. It is beyond the scope of this paper to analyse the complex issue of what works and what doesn’t (although there is very good international research on this point). However, the material from the Doolan paper justifies reproduction here.

Doolan uses the following two examples to “illustrate how research can provide the information, which leads to effective policy”:

“**Lipsey (1992)** brought into a single statistical study the results of almost 400 evaluations of delinquency interventions. His study shows that interventions can both decrease and increase the chances of further offending. He used his database to determine the effectiveness of different kinds of approaches to offender management. The table shows seven common types of strategy together with the average decrease or increase in offending that occurred in all the studies using that intervention:

<i>Intervention Type</i>	<i>Change in expected re-offending rate</i>
Preparing for employment	35% decrease
Behaviour contract	25% decrease
Institutional training	15% decrease
Court/Probation	10% decrease
Offender Counselling	8% decrease
Family Counselling	No change
Deterrent Sentencing	25% increase

(Lipsey 1992, page 125)

Analysis (DSW 1997) of the policy implications of this is interesting and points a way ahead.

- ?? Most un-researched interventions are either detrimental, produce no change at all or produce relatively little cost-effective change.
- ?? Providing the right kind of intervention is more important than providing a lot of intervention.
- ?? Contact with the official, punishment oriented justice system has either no effect on future offending behaviour or increases it.
- ?? Treatment based around counselling and psychotherapy have limited impact and are probably not cost effective.
- ?? Programmes that keep young people in the mainstream (school for example) and prepare them for adult roles, or actually getting them employment are the most effective.
- ?? All cultures and both genders respond in similar ways.

The US Comprehensive Study (USDJJ 1995) between 1993 and 1995 found that the most effective programmes were those that:

- ?? Were directed to achieving the outcome of interrupting progress towards adult offending.
- ?? Incorporated prevention services involving the identification of the small group of high-risk children who are showing problem behaviour before they offend.

- ?? Immediate intervention in response to the onset of offending.
- ?? Aftercare involving progressively declining levels of supervision and support.

The most effective programmes reduce re-offending by 50 per cent or more; all make use of structured decision-making; and all programmes pay particular attention to cost effectiveness and allocate resources according to level of risk. Cases are managed at the least restrictive level possible.

Clearly, evidence-based policy and programme development is going to be more focussed, understandable in terms of its goals and objectives and much less susceptible to the fads and fancies approach that tends to characterise young offender policy.

CHOOSING INTERVENTIONS THAT WORK

The New Zealand analysis (DSW 1997) concludes that there are six key features of successful approaches to the hard to manage young person:

- 1 Family focussed **early intervention strategies** that identify children showing high risk behaviour patterns and offer assistance to families and schools. Early identification is possible (Fergusson 1998). Three intervention points are targeted – neo-natal families, entry to school and entry to adolescence. Neo-natal families are offered an intensive home-based visiting service. Services to junior schools are aimed at preventing school failure and exclusion and bring home and school together to do so. Teenage programmes emphasise school maintenance, trained and supervised role models and behaviour contracts.
- 2 **Helping them get back on track.** Most young people want a life. These young people have lost the track to success in the mainstream and are vulnerable to becoming a member of a subculture that has highest regard for the most deviant. Getting them back on track involves restarting progress towards mainstream developmental goals and rebuilding esteem through mainstream achievement – re-introduction to school, successful sports participation, getting a drivers licence, having and keeping a boy/girl friend, and shutting down involvement with deviant peers.
- 3 **Reducing personal disorder.** Most of these young people come from families that are not coping well. Everything is a mess. Key targets for intervention are substance abuse, harsh discipline, abusive treatment at home, sexual victimisation, domestic violence, parental criminality and barriers to learning (not being able to read) and social participation (having no money).
- 4 **Extra help for young women.** Practice knowledge indicates that as many as 4 out of every 5 young women in this group of young people will have been sexually victimised at some time in their lives. They may be involved in prostitution, have experienced abortion, incest or a sexually transmitted disease. A high number will be mothers before 18. These young women need practical assistance in preventing unwanted sexual involvement and maintaining sexual health, as well as help to overcome the emotional impact of sexual victimisation. A key result area could be that such young women do not become mothers until they freely choose to do so.
- 5 **Appropriate use of increasing sanctions.** Increasing accountability for continued offending is an important part of shutting it down. While there is clear evidence that

deterrent sentencing, particularly where it involves custody, helps young people develop their offending careers, for repetitive offenders who are not markedly disordered, continued offending should result in increasing personal cost.

- 6 **Getting the system right.** This involves developing policies and practices that provide a series of increasingly powerful barriers to continued offending or delinquency. Early minor contacts are dealt with in a low cost way, with problem escalation resulting in increasingly more targeted and powerful interventions. Intensive re-socialisation and personal development programmes will be necessary for the small number who are clearly headed for life-course persistent problems. All service providers are organised in an integrated, highly professional process. Common decision-making strategies are used across the system. All intervention proposals are researched before introduction and continually evaluated.”⁹⁰

9. Lack (until recently) of an effective national Youth Justice leadership structure

In April 2002, a Ministerial Taskforce on Youth Offending produced a Youth Offending Strategy, in which it was recommended (amongst other things) that a national strategic and governing structure for Youth Justice be established. Prior to the implementation of this recommendation, there was no one entity that had final responsibility for Youth Justice in New Zealand, nor any body to co-ordinate an inter-agency approach to Youth Justice. Shared leadership had amounted to no leadership.

In accordance with the recommendations in the Youth Offending Strategy, a new structure for Youth Justice has recently been put into place. It comprises:

- ?? A Senior Minister’s Group.
- ?? A National Youth Justice Advisory Group (or ‘NYJAG’), which has primary responsibility for leading and co-ordinating Youth Justice throughout the country. NYJAG is chaired by the leader of the Ministry of Justice’s Youth Justice Team and its members include representatives of CYFS, the Police, Courts, Health, Education and the Ministry of Social Development.
- ?? 32 local Youth Offending Teams (‘YOTs’) comprising a cross-agency membership of representatives from CYFS, Police Youth Aid, Health and Education. The aim of YOTs is primarily to foster co-operation and best practice amongst key Government agencies. Also, to lead and co-ordinate Youth Justice work within a local community. They have not yet become a forum for discussing and resolving particularly difficult or intractable cases. YOTs’ report regularly to the NYJAG on local weaknesses in the system. Trends and recurring issues emerge which demand resolution at a national, policy level.
- ?? Standing outside this “tiered” structure, but part of it, is the Youth Justice Independent Advisory Group (the ‘IAG’), of which the Principal Youth Court Judge is the Chairperson. Five members have been initially appointed to this group. They are a senior Youth Advocate, the former head of a regional Police Youth Aid team, a Senior Lecturer in Clinical Psychology, the Principal of the Auckland College of Education, and the Manager of the Youth and Cultural Development Society (a community group that works with young people who offend).

The purpose of the IAG is to assist in the delivery and implementation of the Youth Offending Strategy. The IAG will be a forum for discussing initiatives and developments in the Youth Justice

sector and developing independent advice to Ministers. It will also be a forum for feedback and constructive comment from the community and Youth Justice practitioners to senior Government officials in the Youth Justice sector.

Only time will tell whether these promising developments will produce the outcomes envisaged by the Ministerial Taskforce.

10. Lack of co-ordinated early (or earlier) intervention

To nourish children and raise them against odds is in any time, any place, more valuable than to fix bolts in cars or design nuclear weapons.

Marilyn French

The Youth Court is the ultimate ambulance at the bottom of the cliff; it can and does make a difference. But the real solution, and the really compelling need, is for a comprehensive, cross-Government Department early intervention programme. It would take fifteen years for such a policy to bear fruit, at least through to the youth offending stage. Regrettably, three-year election cycles make this kind of delayed political gratification unattractive.

The case for early intervention:

Good common sense

“Give me a child until he is seven, and I will give you the man (or woman)”

St. Ignatius of Loyola (1491 -1557)

Sound cost benefit

One year in prison costs \$54,020.

Early intervention is designed to address issues of inadequate/inappropriate parenting, abuse, neglect, early childhood cognitive and behavioural problems, and family poverty, all of which are factors in future offending (amongst other negative consequences later in life).

“In recent years, there has been a great deal of research into the way human beings develop, especially in the first five years of life... There has been a rediscovery in the policy world, of the role of early childhood as a lifelong determinant of health, well being and competence... . Recent insights from neurobiology, developmental psychology, and longitudinal studies of children give credibility to notions long held as common sense...”⁹¹.

“The better the care and stimulation a child receives, the greater the benefit for the national economy as well as the child. The world is finally recognising that children’s rights to education, growth and development - physical, cognitive, social, emotional and moral - cannot be met without a comprehensive approach to serving their needs from birth.”⁹²

Seven Important Principles

1. The earlier the better.
2. An holistic, family centred approach is best:

“...counter-productive to isolate children from their living and learning environments...early intervention initiatives must offer support across the major systems of influence in a child’s life...”
3. Multi-component approaches, over prolonged periods of time, are likely to be more effective than single faceted, “one shot”, approaches. (*NB. One programme doesn’t have to do it all: a co-ordinated range of programmes will be effective.*)
4. **But**, reducing one risk factor is likely to reduce others as well.
5. Programmes designed to:
 - ?? reduce risk of child abuse and neglect; and
 - ?? combat “child poverty”,will be particularly important.
6. Targeting a particular disadvantaged group is effective.
7. Ongoing, repetitive effort required.

What isn’t happening?

At the moment, the New Zealand system is lacking. There is:

- ?? No overarching, cross-departmental, national policy for early intervention.
- ?? No adequate, (single) funding source for early intervention work.
- ?? No co-ordinated, comprehensive, national delivery of early intervention. There are a variety of early intervention initiatives developed by different government departments, but not enough attention to a co-ordinated cross-departmental delivery system.
- ?? Insufficient co-operation between the many excellent advocacy and operational groups working with children.

What is?

The Youth Offending Task Force recognised the need for appropriate and effective early interventions as one of its key focus areas. In its 2002 report (at pages 26 and 27), the Task Force said:

“There is a long-standing concern that the need to respond to immediate and tangible problems, including youth offending, takes priority over the need to intervene early in

children's lives. This is particularly where the benefit of that intervention may not be immediately apparent and the identification of that child or family may be difficult. A balance is required between responding to the needs of children and young people who offend and improving the provision of services at the early developmental stages of childhood. The importance of early intervention initiatives needs to be supported and reinforced by the youth justice sector.

...

As with other key areas, increased co-ordination and collaboration between government agencies and with the community is required to improve consistency of funding and programme objectives, identification of gaps in services, and appropriate assessment and referrals of families/whanau and their young children.”

The Task Force proposed the following initiatives to improve early interventions:

- ?? Continuing to ensure the needs of young children (0-4 years) receive high priority in the social, health and education sectors.
- ?? Providing and supporting culturally responsive services for Māori and Pacific Island families experiencing multiple disadvantages (especially young parents).
- ?? Ensuring family support and skills programmes are provided by trained providers, are high quality, and have effective supervision and accountability mechanisms.
- ?? Increasing co-ordination and collaboration across government agencies and community groups; improving consistency of funding and programme objectives; identifying gaps in services; appropriately assessing and referring young children.
- ?? Continuing efforts to increase participation (particularly of Māori and Pacific Island people) in key preventative services (such as early childhood education).

And one final “weakness”...

Any system of justice should serve the purpose of “general deterrence”: i.e. young offenders (in this case) ought to be able to clearly understand the system and the likely consequences. Moreover, any community as a whole needs to have confidence in its Youth Justice system – and confidence comes from a simple and easily understood system. It is arguable the New Zealand system fails on both counts. The Children, Young Persons and Their Families Act is a very complicated and confusingly drafted piece of legislation which, in respect of least one section (s248 – waiver of FGC's), is all but impenetrable. The Act also sets out a very complex Youth Justice process, which is not easily explained – as may be evident from section 6 of this paper.

For instance “purely indictable” cases, are not initially “in” the Youth Court. However, Youth Court jurisdiction may be offered (after an FGC) and, if accepted, the case may be heard in the Youth Court. It then may be transferred back out of the Youth Court to the District Court, but only if the young person is over 14, and then a lower maximum sentence applies than if Youth Court jurisdiction had not been offered in the first place. Confused? Most are.

The point is that, while the end result can be justified as perfectly appropriate, and, even if a prison sentence is inevitably imposed in the District Court as a proper response for serious offending, few in the community understand what has happened in individual cases (not least the young offender).

Also, in respect of serious offending, the public often loses track of what is happening and assumes that an offer of Youth Court jurisdiction guarantees a “lenient penalty”. Surely it would be simpler to have all “purely indictable” cases initially within the Youth Court jurisdiction, with the option of transferring them to the District or High Court at any stage in the proceedings, with or without restriction. The advantages of the FGC would be preserved.

With a little work, needless complexities in the Act could be “ironed out” for the sake of clarity and public confidence.

13 Conclusion

The legislative framework underpinning the New Zealand Youth Justice system is sound and has widespread government agency and community support. However, there is significant concern that the innovative aims and philosophy of the Children, Young Persons and Their Families Act 1989 are being thwarted by inadequate resourcing and inconsistent inter-agency co-operation. Despite these, not inconsiderable, challenges to the system, the outcomes since the passage of the legislation suggest that the system *is* working. An increase in diversion and decrease in cases coming to the Youth Court, together with decreases in incarceration and institutionalisation, are achievements of which all those working in the New Zealand Youth Justice sector may justly be proud. Moreover, the qualitative improvements in participation in the system by young offenders, their families, and victims, and collaborative outcomes made possible by the groundbreaking Family Group Conference mechanism, underpin the broad based approval of the New Zealand system.

It is regrettable that there are no good statistics available to date on the prevalence of re-offending under the current system of Youth Justice, relative to other possible models. The difficulty here is the lack of a control group. Reduction of recidivism is the ultimate aim of any Youth Justice system. And a small group of serious “early onset” offenders remain a profound challenge.

Nevertheless, it is suggested, there is still cause for cautious optimism in the New Zealand context. Youth offending is not sky rocketing out of control. Under the current framework, – with recognition of the need to improve and better resource the system and the steps taken, under a new national management structure, to do so – it seems likely that the New Zealand system could still deliver in full on the promise of a truly world leading system.

Notes:

1. For further reading, an interesting description of the New Zealand system and its strengths and weaknesses is to be found in *Juvenile Justice Systems*, Chapter 8, “Juvenile Crime and Justice in New Zealand”, Gabrielle Maxwell and Allison Morris, Thomas Educational Publishing Inc., Toronto, 2002.
2. See also a helpful paper “A History of Youth Justice in New Zealand” by Emily Watt available on the Youth Court Website in the “About Youth Justice” section.

¹ Compiled, in collaboration, by Judge Becroft and Clare Needham (BA, LLB), Research Counsel to the Principal Youth Court Judge.

² s4(f)(i) and (ii) of the Act.

³ “The New Zealand Youth Court: A Model for Development in Other Courts?” District Court Judge FWM McElrea. A paper prepared for the National Conference of District Court Judges, Rotorua, New Zealand. 6 – 9 April 1994, page 2. Judge McElrea is New Zealand’s leading judicial writer on the youth justice system.

⁴ National Population Estimates: September 2003, Statistics New Zealand, 23 October 2003 (total estimated resident population of 4,024,400).

⁵ Ibid. (0-16 year olds estimated at 1,005,100).

⁶ New Zealand Census 2001, Statistics New Zealand.

⁷ Sub-national Population Estimates: 30 June 2002, Statistics New Zealand, 13 November 2002.

⁸ This data is from New Zealand’s 2001 Census in which it was possible for people to identify themselves with more than one ethnic group (hence these figures, if converted to percentages, total more than 100%).

⁹ Ibid.

¹⁰ National Population Projections, 2001 (base) – 2051, Statistics New Zealand, 24 October 2002.

¹¹ Projected Population of New Zealand and Selected Demographic Characteristics, 2001(base) – 2051, Statistics New Zealand.

¹² New Zealand Census 2001, Statistics New Zealand.

¹³ s21 Crimes Act 1961.

¹⁴ s2 Children, Young Persons and Their Families Act 1989 (CYPF Act).

¹⁵ s272(1) CYPF Act.

¹⁶ s272(2) CYPF Act.

¹⁷ s14(1)(e) CYPF Act.

¹⁸ s70 CYPF Act.

¹⁹ a few non-imprisonable traffic offences must be dealt with by the District Court.

²⁰ s272(4) CYPF Act.

²¹ s4 CYPF Act.

²² s5 CYPF Act.

²³ s208 CYPF Act.

²⁴ From “Changing Lenses: a new focus for Crime and Justice”, Howard Zehr, 1990, page 211.

²⁵ “The New Zealand Youth Court: A Model for Development in Other Countries?” Judge FWM McElrea, A paper presented for the National Conference of District Court Judges, Rotorua, New Zealand, 6-9 April 1994, at page 10.

²⁶ Synopsis of “The Intent of the Children Young Persons and Their Families Act 1989 - Restorative Justice?” Judge FWM McElrea, for the 1994 Youth Justice Conference of the New Zealand Youth Court Association (Auckland) Inc.

²⁷ s66 Summary Proceedings Act 1957.

²⁸ s276 CYPF Act.

²⁹ s275 CYPF Act.

³⁰ s329(1) CYPF Act.

³¹ s438 CYPF Act.

³² s323(1) CYPF Act.

³³ ss258 & 259 CYPF Act.

³⁴ s18(3) CYPF Act.

³⁵ s258(a) & 259(1) CYPF Act.

³⁶ s245 CYPF Act.

³⁷ s258(b) & 259(1) CYPF Act.

³⁸ s247(d) CYPF Act.

³⁹ s258(c) CYPF Act.

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- ⁴⁰ s246 CYPF Act.
- ⁴¹ s258(d) & s259(1) CYPF Act.
- ⁴² s281 CYPF Act.
- ⁴³ s258(e) CYPF Act.
- ⁴⁴ s281B CYPF Act.
- ⁴⁵ s256(1) CYPF Act.
- ⁴⁶ s260 CYPF Act.
- ⁴⁷ s260(3) CYPF Act.
- ⁴⁸ s260(2) CYPF Act.
- ⁴⁹ s279 CYPF Act.
- ⁵⁰ s283 CYPF Act.
- ⁵¹ s282 CYPF Act.
- ⁵² s283 CYPF Act.
- ⁵³ Quotes courtesy of Gabrielle Maxwell and Allison Morris, Crime and Justice Research Centre, Victoria University of Wellington.
- ⁵⁴ Source: NZ Police.
- ⁵⁵ Source: NZ Police.
- ⁵⁶ Source: Ministry of Justice.
- ⁵⁷ Source: Ministry of Justice.
- ⁵⁸ Source: Children, Young Persons and Their Families Department.
- ⁵⁹ Source: NZ Police and Ministry of Justice.
- ⁶⁰ Source: NZ Police.
- ⁶¹ Source: Maxwell and Morris, 1998; Maxwell, Robertson and Anderson, "Police Youth Diversion", a report from the Crime and Justice Research Centre, Victoria University of Wellington 2002.
- ⁶² Source: New Zealand Police.
- ⁶³ Source: Ministry of Justice.
- ⁶⁴ Source: NZ Police.
- ⁶⁵ Source: NZ Police; Ministry of Justice; Maxwell, G. Crime and Justice Research Centre, Victoria University 2002.
- ⁶⁶ Source: Final Report "Police Youth Diversion", Crime and Justice Research Centre, Victoria University, Wellington, Jan 2002.
- ⁶⁷ Source: Department of Child, Youth and Family Services.
- ⁶⁸ Source: Ministry of Justice; Department for Courts, 2002.
- ⁶⁹ *The Dominion* newspaper, Wellington, 29 March 2002.
- ⁷⁰ Source: Ministry of Justice.
- ⁷¹ Source: Department for Courts.
- ⁷² s198 CYPF Act.
- ⁷³ Department of Social Welfare (1984), p.41.
- ⁷⁴ "Achieving Effective Outcomes in Youth Justice: Implications of new research for Principles, Policy and Practice" Gabrielle Maxwell, June 2003, Crime and Justice Research Centre, Victoria University of Wellington, p8.
- ⁷⁵ "Working with Young People who Offend", Mike Doolan, presented in Glasgow, 25 September 2001, page 2.
- ⁷⁶ Source: Neil Cleaver, National Manager FGC Co-ordinators.
- ⁷⁷ *Ibid*, note 75, page 3.
- ⁷⁸ Sections 275 and 276 CYPF Act.
- ⁷⁹ s18 Sentencing Act 2000.
- ⁸⁰ "Achieving Effective Outcomes in Youth Justice: Implications of new research for Principles, Policy and Practice" Gabrielle Maxwell, June 2003, Crime and Justice Research Centre, Victoria University of Wellington, p8.
- ⁸¹ s323(1) CYPF Act.
- ⁸² s323(2) CYPF Act.
- ⁸³ Youth Offending Strategy (report of the Ministerial Task Force on Youth Offending), Ministry of Justice and Ministry of Social Development, April 2002, pages 32-34, Key Focus Area 5: First Contact With Police.
- ⁸⁴ s255 CYPF Act.
- ⁸⁵ "Effectiveness of Supervision Orders." Report on National Survey of Youth Justice Practitioners, Ministry of Social Policy, 3 October 2000.
- ⁸⁶ s314 CYPF Act.
- ⁸⁷ "Effectiveness of Supervision Orders." Report on National Survey of Youth Justice Practitioners, Ministry of Social Policy, 3 October 2000.
- ⁸⁸ "Work with Young People who Offend", Mike Doolan, presented in Glasgow, 25 September 2001.
- ⁸⁹ *Ibid*.
- ⁹⁰ *Ibid*.
- ⁹¹ Clyde Hertzman "The Case for an Early Childhood Development Strategy", 2000.
- ⁹² Carol Bellamy, UN Children's Fund, 1999.