COURT IN THE ACT

TE KŌTI TAIOHI O AOTEAROA • THE YOUTH COURT OF NEW ZEALAND

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EDITORIAL: My Farewell to Youth Justice: "Over and Out"

Principal Youth Court Judge Becroft

Ehara taku toa I te toa takitahi,
engari he toa takitini.

My strength is not mine alone,
but the strength of many.

This is the last editorial I will ever write for Court in the Act. After just over 15 years as Principal Youth Court Judge, today, 30 June 2016, is my last day in the role. I take up the position of Children's Commissioner for Aotearoa New Zealand as from 1 July 2016.

I am quite sure that it is the right time for me to leave. Now is the time for new blood, rejuvenated leadership and a fresh vision to take the Youth Court forward into the 2020s. It has been a tremendous privilege and opportunity to serve as the third Principal Youth Court Judge and to "lead" a court which, more than most courts, provides the opportunity to make a meaningful and genuine change in the lives of offenders. As is often noted, young offenders are almost a "different species of human being", subject to significant physiological and developmental changes, with a frontal lobe that is being re-wired and for whom quality intervention can and does make a real difference. In my view there is no more rewarding, absorbing, and fulfilling court to be involved in.

So, as I reflect on the 72 editions of Court in the Act and the intervening time since Volume 1, way back in 2001, my lasting and abiding impression is the overall strength and quality of our youth justice system. What stands out is the tremendous expertise and professionalism demonstrated by countless government and community agencies and individuals who are involved and support the system with dedication and passion. As I write, I am conscious of the whakataukī :

Kāore te kūmara e kore mō tōna ake reka — *The kūmara does not tell of its own sweetness*

But today is surely the time for me to say, as I reflect on all the experiences I have had in this role (including the opportunities to visit overseas jurisdictions and to be involved in international conferences), to say that we really do have a world -class and world-leading youth justice system. Of course there are significant improvements that we need to make: not least in our response to the growing disproportionality of Māori offenders in the Youth Court; to violent youth offending; to those with profound neurodisabilities; and, the growing challenge of serious female youth offending. Nevertheless, our twin emphasis on non-charging wherever possible using community based interventions; together with reserving the Youth Court only for the most serious young offenders - using the Family Group Conference as the foundational lynch pin for decision making, have stood the test of time and remain something of a beacon and model internationally for an effective and credible youth justice system.

When I assumed this role, the then Principal Youth Court Judge David Carruthers had almost finished the work of chairing the Youth Offending Taskforce which produced the 2001 Youth Offending Strategy. As I look back, the major change in the youth justice system since that time, and which outshines all else, is the increased size and expertise of those in-

volved in the youth justice system and the collaborative team approach that is being continually developed. Such a far cry from some of the "siloed" and isolated approaches of the 1990s, so bemoaned to all those who addressed the Youth Offending Taskforce.

Youth Court Judges are a rare breed, presiding over a Court that is often misunderstood

I begin with a tribute to my judicial colleagues. Youth Court Judges are a rare breed, presiding over a Court that is often misunderstood and somewhat marginalised with only a small percentage of the District Court business overall, but in a position to influence almost 100% of tomorrow's District Court criminal clientele. Those Youth Court Judges I have worked with have been tremendously supportive and encouraging and I am proud to have been part of a team in which they have made such wonderful local and regional contributions. Many have commenced pioneering initiatives that have proved both world-leading and highly successful. The Youth Court continues to be a "breeding ground" for new ideas and a source of cross-pollination into the adult District Courts.

I have also been blessed to have an outstanding series of Executive Assistants and Research Counsel over my 15 years in the role. It would be wrong for me to single out any one of them. What stands out has been the team approach here in my Chambers, their willingness to serve the youth justice community with enormous hard work, their commitment to improving our youth justice system and their patience in putting up with me.

The current PYCJ team

I also pay tribute to the Ministry of Justice staff and in particular, the Youth Court staff/case officers who provide such a committed and professional service. They are an integral part in the overall youth justice team. Most go above and beyond the call of duty and are often involved in suggesting and organising team lunches and local seminars on youth justice.

Our specialised Police Youth Aid system is the envy of the world. Our system could not function without them and their commitment to community based, rather than Court focussed solutions. The role of the Police Youth Aid Constable is often better understood and respected overseas than in Aotearoa New Zealand.

Our Child, Youth and Family youth justice social workers, some of whom have given a lifetime commitment to this role, often provide outstanding input in their work with some highly difficult and hard to reach families. Equally, our team of Family Group Conference Co-ordinators by and large provide excellent facilitation and leadership of the FGC process and often produce some highly creative and tailored FGC plans that lay basis for a changed life. When done well, the FGC process has in it the seeds of genius and is rightly the envy of the youth justice world.

Nowhere else in the world has a specialised, state funded, team of legal advocates for young people. This is one of the real strengths of our youth justice system and often underestimated by policy makers. The specialised expertise and input of Youth Advocates I hope will remain an enduring hallmark of our system.

Similarly, we are slowly but surely developing a very competent team of Lay Advocates. Their role is to provide cultural expertise and input into the Youth Court process and also to represent the interests of a child or young person's whānau, hapū and iwi, or their equivalent in the culture of the child. Again, no other youth justice jurisdiction in the world has established such a role. Seen in this way, the term Lay Advocate is unfortunate. It too easily suggests an untrained or second tier advocate. In fact, there has never been a greater need for a courageous indigenous voice, in particular, into the Youth Court system, and a mechanism to ensure the representation of whānau, hapū and iwi.

Youth Forensic Officers are now in every Youth Court in the country and with the exploding knowledge about the prevalence and nature of neurodisability in young offenders we have never needed their expertise more.

Similarly, Education Officers (and Education Reports), while not yet in every Youth Court, are significantly expanding in their scope and availability. Given that at least 75% of those appearing in the Youth Court are virtually permanently disengaged from education, the role of an Education Officer has never been more crucial.

We are also very fortunate to have the input of many drug and alcohol clinicians and counsellors, some of whom make real sacrifices to regularly attend Court hearings.

And, as we expand and consolidate the role of Rangatahi and Pasifika Courts, we rely more and more on local Marae communities and kaumātua and kuia in the 14 Rangatahi and two Pasifika Court venues. The clock cannot be turned back on this development and I am sure that the small beginnings under the leadership of Judge

Taumaunu and the team Māori District Court Judges will gradually transform the shape and delivery of our criminal justice syste.

Running beside all these important roles are the equally important non-government organisations, community groups, local trusts, academics and policy researchers that play a critical and essential part in the youth justice process. I vividly remember Aotearoa's "father figure" of youth work, Lloyd Martin, describing the essence of responding to troubled young people, especially youth offenders, as requiring both a "cure and a care" approach. His riveting presentation at the 2006 National Youth Justice Conference challenged a generation of youth justice workers. The "cure" model he described as the professional government sector based on assessments, risk, diagnosis and time limited interventions to bring about change. On the other hand, the "care" model consisted of the community walking faithfully alongside a young offender and his or her family, modelling pro-social values, building on strengths and interests and being available for a young offender (and their family) for as long as it takes. Too easily, Mr Martin challenged us, we divide into the two camps: professional "curers" and community based "carers." But each desperately needs and should rely on the other. All our interventions require both approaches. Let us never lose sight of this.

At the heart of it all, of course, are the young people

At the heart of it all, of course, are the young people we work with every day. Despite all of their difficulties and challenges, I have found them invariably rewarding and absorbing to work with. No group of people tell it quite as straight or as honestly as those appearing in the Youth Court. Given the statutory mandate to encourage their participation and to provide a forum for their "voice", I would have it no other way.

I have so many memories of you all and of the enormous sacrifices you make to work with often very serious young offenders. It would be quite wrong for me to single out names, but your sacrificial service, enthusiasm and dedication will remain my most prominent and abiding memory, (of many), of the youth justice system. As just one example, I recollect during a busy Youth Court list with only one Police Youth Aid Officer available that I made a bail order with detailed conditions allowing the young offender to live several hundred miles away from the Court rather than being placed in a youth justice residence. The only problem was, there was apparently no transport or no family or other supportive individual to take the young person. After discussion, the sole Police Youth Aid Officer arranged for a substitute in the Youth Court to replace him, and he drove the offender himself the 200 mile journey to the young person's safe and secure new bail home, returning back to the police station very late in the evening. There are examples of that sort of dedication week of week, month after month, year after year throughout Aotearoa New Zealand. Can I salute you all. I will miss you enormously. You have had an enormous impact on my life and thinking and have helped shaped my approach to youth justice.

I am very excited by the new role as Children's Commissioner for New Zealand. I think that I am the only Commissioner appointed so far with expertise and involvement in the teenage/adolescent community. In the two years I have, I hope I can bring some real policy focus to the work in this area without dropping the ball on the critical abuse and neglect issues surrounding our most vulnerable infants and young children. Dr Russell Wills has been and outstanding and courageous Commissioner and I hope I can build on his fine work. I hope I continue to see many of you in my new role and will rely on your advice, input and support.

As I close, I am reminded of the words of a youth worker who challenged new Youth Court Judges at an Orientation Programme some years ago. He said that all of those in the youth justice system, whatever their specialised role, and whatever the demands placed on them, should provide "hope" to young people. He said young people, young offenders in particular, although they have the most strange ways of showing it, need to know that they are loved and valued and that there is hope. Young people who we all see deal in hope. Hope is the currency that all adults involved in the youth justice system should use. We should be "merchants of hope". That is an enduring challenge. I challenge you all as "merchants of hope" who work with young people. My prayer is that this commitment to a specialised youth justice system in New Zealand continues. In the words of a young lay advocate in Israel over 2500 years ago (Micah) "what is required of us, is that we act justly, we love mercy, and we walk humbly with our God." ■

Judge Andrew Becroft

Principal Youth Court Judge of New Zealand
Te Kaiwhakawā Matua o te Kōti Taiohi ki Aotearoa
(1 June 2001 – 30 June 2016)

Judge Becroft at the Christchurch Rangatahi Court participating in a wānanga to keep young people occupied while they waited their turn.

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YOUTH JUSTICE AT THE MARGINS –the Conceptual and Practical Implications of Including 17 year olds in the Youth Justice System

Monday 16 May
Summary of discussion: Key Points

A proposal to raise the age of penal majority to 18 is under consideration by government. On Monday 16 May, a workshop convened by Dr Nessa Lynch (Faculty of Law, Victoria University of Wellington) and Dr Katie Bruce (JustSpeak) brought together academics, policy-makers, practitioners and professionals to discuss the implications of the potential change.

Speakers included the Children's Commissioner, Russell Wills; the University of Auckland's Dr Ian Lambie; and JustSpeak's Dr Katie Bruce. The forum encouraged free and frank discussion by operating under the Chatham House Rule (comments made may be reported, but may not be attributed to a particular speaker, nor to the speaker's affiliation). Subsequent to the workshop, a summary was generated for circulation. Included below are the Key Points emerging from the discussion.

- The Youth Court could cope with the additional numbers- it already has in the past.
- Māori voices need to be listened to, as Māori youth will be most affected by any change. Proposed changes to youth justice need to work for Māori young people.
- Certain provisions in the youth justice system have still not been properly understood or implemented – for example, the s 208 principle that any measures for dealing with offending by young people should be designed to strengthen whānau, hapū and iwi, and to foster the ability of whānau, hapū and iwi to deal with offending.
- Public attitudes towards criminal justice are not the same as what is portrayed in the media. A recent study showed that in general, people favour rehabilitative and restorative approaches. This is particularly the case for those who have been victims.
- There were overwhelming comments of support for the age to be raised as the evidence is so strong—for example, in brain science, and in other jurisdictions.
- There is the opportunity to create a layered system that can cater more to individual circumstances- such as first offence or neurodisabilities. Those over 18 could be referred back down to the Youth Court if appropriate.
- Cross-agency issues of implementation need to be considered and worked through to make this a smooth transition. ■

For further information regarding the workshop, please contact us at courtintheact@justice.govt.nz.

PRESS RELEASE: Social Investment in the Criminal Justice System (extract)

The Ministry of Justice is implementing a "Social Investment Approach" to criminal justice, including within the youth justice system. Here, we reproduce an extract from a press release explaining the "Investment Approach" amd its relevance to the youth justice sector.

Minister of Justice Amy Adams | 03 May 2016

How the Investment Approach works

"The Investment Approach to Justice is based on four streams of work.

The first is about how we measure the burden that crime places on society, and how we will understand if our investments are reducing it.

In the welfare system they use a fiscal liability measure. We are exploring a number of alternatives that may be more appropriate to crime. For example whether a harm based measure or an index based on a severity weighting of the offending could give a more meaningful picture.

The second stream of work is about building the statistical, actuarial models that will help us understand who in New Zealand is most at risk of future offending and victimisation. Again, while we know the high level picture, this is about giving us a much more granular analysis than ever before, allowing much greater targeting of interventions.

Delinquency problems and substance abuse at age 15, and leaving secondary school early, can be strong predictors of future family violence.

So for example, we know that in family violence one per cent of NZ adults suffer 62 per cent of family violence, meaning it has one of the highest re-victimisation rates across offence types.

We also know that delinquency problems and substance abuse at age 15, and leaving secondary school early, can be strong risk predictors of future family violence offending. We also know that a partner's pregnancy or having a young child in the home, or a recent separation, or threat of it, can all be potential triggers for family

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violence. We know those who offend at a young age can be significant contributors to future crime but we want to know which types of offending in particular are the greatest predictors of future recurrent offending.

The third stream of work is about understanding what works to reduce crime. Not just in the justice sector, but right across government and at all stages of the life-course as I've mentioned.

For example, do particular sentence types lead to statistically significant differences in re-offending when matched with comparable groups of offenders? Crime has been extensively studied over many years, but the research findings are not always easy for busy decision-makers to find and interpret. An important part of the Investment Approach is gathering this evidence and making it accessible to policy makers and researchers.

The final stream of work is about connecting these insights with decision-makers across the system and taking different decisions as a result.

The modelling that supports the Investment Approach is made possible thanks to the assembly of information on the Integrated Data Infrastructure, or IDI. It is anonymised data brought together from various government agencies throughout the public sector that can be analysed to gain meaningful insights into people's lives and better understand the relationship between crime and other social issues.

By applying smarter data analytics we're able to point to real results that are reducing the burden of crime and reducing the number of victims. The data also tells us how much crime would be prevented if we increased the level of investment in any particular area to ensure best use of the resource available.

Early insights from the Investment Approach

What the Investment Approach does is bring hard numbers to the long-held "truths" people working in the Justice sector have intuitively known.

We've known, for example, that many people who come into contact with the Justice System have drug and alcohol issues – and that those drawn to a life of crime, usually start young.

Those who end up in prison have typically been known to government agencies for many years.

And we also know that those who end up in prison have typically been known to government agencies for many years.

For example, three out of every four young prisoners was notified to Child, Youth and Family for a care and protection concern before they turned 15 years old.

Some of our early analysis found that for a cohort of people born in New Zealand in 1978, 80 per cent of convictions went to those who were first convicted before the age of 20.

This analysis also found that one in four of those born in 1978 has a criminal conviction. One in three men born in 1978 has a criminal conviction and one in two Māori and Pacific men has a conviction.

We've always known that many people who interact with the Justice Systems have mental health issues but it's been difficult for us to quantify the full extent or nature of this. Our analysis using the IDI is the first step of changing this.

For example, we've found that while 11 per cent of the general public have used mental health services, this is dwarfed by the level of use of mental health issues of those in the criminal justice sector where mental health issues affect:

- 35 per cent of those proceeded against by the Police
- 40 per cent of those charged in court
- 51 per cent of those starting a community sentence.

Under our Investment Approach to Justice, we will continue to analyse mental health and explore both the severity of mental illness among people in the justice system and the prevalence of mental illness among particular types of offenders.

Another early piece of analysis has indicated that comparing a matched grouped of offenders across assault, drink driving and shoplifting offences, the imposition of a sentence of fines as opposed to community work led to lower amounts of re-offending and decreased likelihood of future benefit reliance." ■

To read the full text of Minister Adams' speech, visit:
https://www.beehive.govt.nz/speech/social-investment-criminal-justice-system

Four new Lay Advocates appointed in Gisborne

A two-day Lay Advocates training was held in Gisborne for four new Lay Advocates. Pictured to the right is Judge Taumaunu, setting the scene during his session on "what the role is, and what it is not". By all accounts, all stakeholders involved playing their part well in the training, and the new Lay Advocates promise to be great additions to the pool. ■

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Neurodisability Forum

30 May 2016

The 2016 Neurodisabilities Forum, hosted by Dyslexia Foundation of New Zealand (DFNZ), was convened to discuss how neurodisabilities create vulnerability when they come into contact with the justice system, as evidenced by gross over-representation of neurodisabilities in NZ court and prison statistics.

New Zealand has a historic opportunity to radically improve prospects for young people with neurodisabilities who are vulnerable in the justice system.

The Forum report, which is available for download at **www.neurodisabilitiesforum.org.nz**, outlines key recommendations for change in the justice system. With Youth Court age proposals currently under consideration, New Zealand has a historic opportunity to radically improve prospects for young people with neurodisabilities who are vulnerable in the justice system.

The report recommends the Government take urgent action to either raise the Youth Court age or introduce an alternate mechanism to refer vulnerable people with neurodisabilities down to Youth Court. Such action would follow through on recent moves to overhaul Child, Youth & Family to better protect vulnerable children. These are not 'soft on crime' options, but rather recognition of the vulnerability of these individuals and the need to mitigate further criminalisation of mental health issues.

Other key recommendations from the Forum report include that urgent funding and resourcing be made available for a specific study on the prevalence of neurodisability in the New Zealand justice system; and that front line police and other justice practitioners are equipped with better knowledge as to how neurodisabilities present and how best to manage this. A further outcome from the Forum was development of an introductory resource in this area – The Neurodisability Tendencies Checklist – this can also be downloaded at the site **www.neurodisabilitiesforum.org.nz**.

There are a number of reasons why neurodisabilities make young people vulnerable in the justice system. These can include different degrees of comprehension and social (dis)comfort in social situations, along with behaviours that might be perceived as hostility, acting out or evidence of guilt. In reality, these are often coping mechanisms for the individual with neurodisabilities.

Neurodisabilities do not discriminate – they cross over socio-economic, ethnic, and cultural boundaries. They are often co-morbid, and can be intergenerational. It is estimated that up to 80% of young people in the Youth Court have at some point been subject to a Child, Youth & Family (CYF) notification. It is likely that, in many of these cases, family circumstances are underpinned or compounded by neurodisabilities.

The 2016 Neurodisabilities Forum was held in Wellington on 12 May 2016 ton on 12 May 2016 and attended by a broad cross section of more than 60 key stakeholders in the justice, health, education, social development and disability sectors. The Forum was opened by Hon Nicky Wagner, Minister for Disabilities, and keynote addresses were delivered by Principal Youth Court Judge Andrew Becroft and Chair of the NZ Institute for Educational and Developmental Psychologists Rose Blackett. Other speakers included Dr Ian Lambie, Associate Professor, Auckland University, Dr Katie Bruce of JustSpeak, Phil Dinham of CYF Youth Justice Support, Dr Nessa Lynch from Victoria University Faculty of Law, FASD-CAN's Eleanor Bensemann, Sally Kedge from Talking Trouble, Sonia Thursby from YES Disability, and Dyslexia Foundation of New Zealand Chair of Trustees Guy Pope-Mayell. ■

[Text adapted from www.neurodisabilitiesforum.org.nz]

Changes to Canadian Criminal Code for those with Foetal Alcohol Syndrome Disorders

A 2016 enactment amends the Criminal Code of Canada to establish a procedure for assessing individuals who are involved in the criminal justice system and who may suffer from a fetal alcohol disorder. It requires the court to consider, as a mitigating factor in sentencing, a determination that the offender suffers from a fetal alcohol disorder. The enactment also requires the court to make orders to require individuals who are determined to suffer from a fetal alcohol disorder to follow an external support plan to ensure that they receive the necessary support to facilitate their successful reintegration into society.

This enactment follows the publication, in 2015, of an extensive Justice and Human Rights Parliamentary

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Committee report on the matter of FASD in the criminal justice system. A short extract of the report is republished below.

1.1 COMMITTEE MANDATE AND CONTEXT OF THE STUDY

Each year in Canada and in other countries around the world, children are born with permanent brain injuries resulting from prenatal alcohol exposure. These children suffer from complex behavioural and cognitive problems of varying severity – problems that will persist throughout their lives, be compounded by inadequate support and could lead to involvement with the criminal justice system.

The criminal justice system is ill equipped to identify and respond to people suffering from fetal alcohol spectrum disorder (FASD). Many of the witnesses who appeared before the House of Commons Standing Committee on Justice and Human Rights (the Committee) emphasized that research into FASD is forcing us to challenge the normative assumptions of criminal law, namely that "individuals are responsible for their own actions, that they can control their behaviors in keeping with societal expectations and that they can learn from and be deterred by previous experience." [...]

Research into FASD is forcing us to challenge the normative assumptions of criminal law

This report summarizes the information gathered by the Committee during its hearings and through briefs submitted during the study. The report is divided into five chapters, the first serving as an introduction to the subject. Chapter 2 provides an overview of the scientific knowledge surrounding FASD, its underlying causes, the many disabilities associated with it, and its prevalence in Canada. Chapter 3 looks at the impacts of FASD on the criminal justice system and presents data on the prevalence of FASD in the justice system overall and in the correctional population in particular. The chapter also explores how a person affected by FASD experiences the criminal justice system, as an accused, a victim or a witness. Chapter 5 addresses the courts' response to FASD, focusing on the Criminal Code provisions concerning mental health problems and the impact of an FASD diagnosis on sentencing. The last chapter contains the Committee's comments and recommendations related to the key issues raised by witnesses as they discussed the complexity of FASD from a range of perspectives – health, social, legal and economic. This chapter also examines the three objectives of Bill C-583, FASD prevention and the need for more research. ■

For the full report, visit:
http://www.parl.gc.ca/HousePublications/Publication.aspx?Language=E&DocId=7963192

Neurodisability in youth justice systems: a hot topic at the United Nations

Kate Peirse-O'Byrne
Research Counsel to the Principal Youth Court Judge

The United Nations Headquarters in New York.

On 14-16 June, the United Nations headquarters in New York hosted this year's Conference of States Parties (COSP) to the Convention on the Rights of Persons with Disabilities (CRPD).

The annual COSP brings together representatives from governments and civil society from countries which have signed up to the CRPD. As well as the main sessions addressing core United Nations business, the COSP features a number of side sessions on topics related to the event's themes.

This year, the key themes included promoting the rights of persons with mental and intellectual disabilities. Neurodisability—an umbrella term encompassing both mental and intellectual disabilities—was therefore of the utmost relevance to the COSP, particularly in light of the overwhelming evidence that neurodisabilities are overrepresented and largely invisible in youth justice systems (see **www.neurodisabilitiesforum.org.nz** for more information).

This did not go unnoticed by the New Zealand Human Rights Commission. Following the Neurodisability Forum (profiled on page 6), Disability Rights Commissioner Paul Gibson coordinated the organisation of a side event on neurodisability in youth justice systems. The panel was composed of representatives from both New Zealand and the United Kingdom. I had the extraordinarily good fortune of being supported by the Office of the Principal Youth Court Judge and Chief Judge's

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Chambers to attend the side event as a panellist.

The session demonstrated how rights regarding access to justice are significantly inhibited by criminal justice processes that discriminate against, and ultimately criminalize young people with neurodevelopmental pairment, and showcased practices able to redress this. It was an opportunity for representatives from New Zealand and the United Kingdom to discuss the issue in front of a worldwide audience, and to connect with others across the world working in the area of neurodisability.

The Panel was chaired by Paul Gibson, Disability Rights Commissioner. Speakers on the Panel were as follows:

- **Robert Martin, prominent disability self-advocate**, discussed the experience young people with learning disability have within the New Zealand justice system.
- **Professor Huw Williams (University of Exeter; co-author of the report *Nobody Made the Connection*)** discussed how neurodisability can be linked to offending behaviour and what can be done to reduce offending by young people with neurodisability.
- **Dr. Nathan Hughes (University of Birmingham; co-author of *Nobody Made the Connection*)** discussed how criminal justice processes discriminate against and ultimately criminalise young people with neurodisability.
- **Douglas Hancock (NZ Human Rights Commission)** provided an overview of the international frameworks which underpin the rights of young people with disabilities, including the Convention on the Rights of Persons with Disabilities and the Convention on the Rights of the Child.

As the final speaker, I then discussed New Zealand's youth justice system's unique responses to neurodisability in young offenders. My key message was as follows:

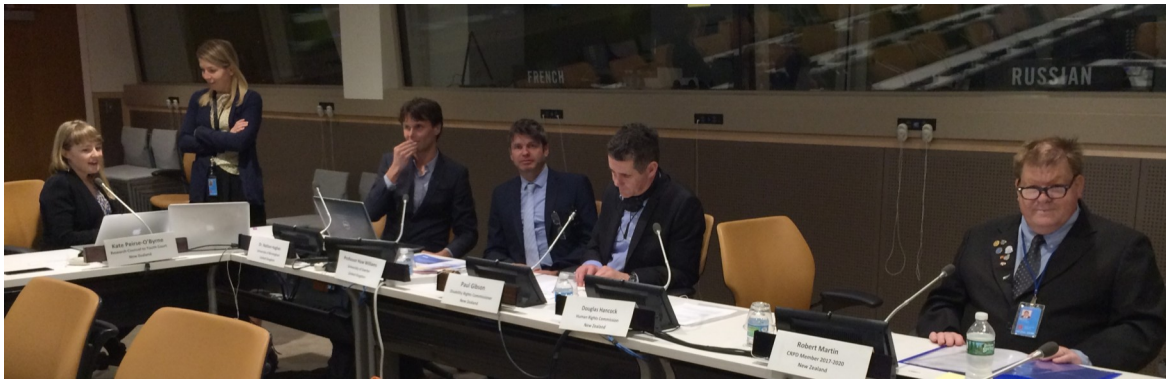
- New Zealand has a legal obligation—both international and domestic—to address neurodisability in our young offenders.
- Increasingly, we are taking steps to meet that obligation—but we have a long way to go.
- The shift in practice was spearheaded by judicial innovation.

Youth Court Judges took brave and innovative steps to do something about neurodisability

The judicial innovation I referred to was that of Youth Court judges who, upon realising the high prevalence of underlying neurodisability in young offenders, took brave and innovative steps to do something about it: both inside the courtroom, with solution-focussed practices emerging, and outside of the courtroom, with the expansion of interagency cooperation to gain knowledge about young people before the courts.

One example of judicial innovation include the Information Sharing Protocol (ISP) between the Youth and Family Courts, which means the Youth Court will be aware of any history of care and protection issues that have gone through the Family Court (for example, a history of family violence, which points to a greater likelihood of Traumatic Brain Injury). A further example is the recent introduction of Communication Assistants into some Youth Courts. Yet another example is the development of "solution-focussed" practices, with the Youth Court Judge not merely processing cases, but regularly monitoring the young person's progress—and indeed, in some cases, acting as a quasi-mentor.

It was an honour to attend the side panel and to speak about New Zealand's work on an international stage. The takeaway message at the United Nations was: The New Zealand youth justice sector is leading the way in this important work, and nations are looking to New Zealand for guidance. Our challenge is to continue leading with courage and vision. ■



Side panellists speaking with the New Zealand Permanent Mission to the United Nations prior to the side session at the United Nations Headquarters in New York.

From left: Kate Peirse-O'Byrne, Sarah Kuper (New Zealand Permanent Mission to the United Nations), Dr Nathan Hughes (Uni. of Birmingham), Dr Huw Williams (Uni. of Exeter), Paul Gibson and Robert Martin.

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A tribute to Dr Russell Wills:

Children's Commissioner 2011—2016

The following speech was delivered by Jonathan Boston, Professor of Public Policy at the Victoria University of Wellington, in tribute to Dr Russell Wills, who retires as Children's Commissioner at the end of June.

Tēnā Koutou, Tēnā Koutou, Tēnā Koutou Katoa. Talofa lava. Hon Jo Goodhew, Members of Parliament, distinguished guests, ladies and gentlemen.

Many children in this country are better off because of your dedication and hard work – and that of your wonderful and very gifted staff.

We are here this evening to farewell Dr Russell Wills and pay tribute to his work as Children's Commissioner since 2011.

Russell, it has been a huge honour to serve you and work with you over recent years. You brought to the role of Children's Commissioner deep professional knowledge, immense understanding and wisdom, and great passion and commitment. Many children in this country are better off because of your dedication and hard work – and that of your wonderful and very gifted staff.

In my brief remarks this evening, let me reflect on four words: values, voice, vision and vital reform – the four 'Vs'. What are this society's values? What do we truly value? And how might we know?

Nelson Mandela once said: 'There can be no keener revelation of a society's soul that the way in which it treats its children'. What does the treatment of children in this country reveal about our values and the extent to which we treasure our children?

Sadly, the evidence points to a society that treats many of its children as second-class citizens – or perhaps not even as citizens at all.

A young student in one of my university classes this year sent me the following email. Amongst other things, she said:

"I grew up in what would be classed as poverty ... facing material hardship, food insecurity and persistent poverty, to the extent where my parents would not eat so we could. ... The houses that we lived in were damp, had no heating and had mould. ...We were always sick, both my sisters dropped out of school early, my youngest sister has lasting health conditions ..."

Dr Russell Wills, Children's Commissioner 2011—2016.

Such experiences are all too common in this country. We may lack the slums of big Asian cities, but as the Prime Minister said in September 2014, 'we have some extremely poor children who are missing out'. Those are his words, not mine: 'extremely poor children'.

I often ask people: why are child poverty rates in New Zealand at least double those of the elderly, and why are child material deprivation rates up to six times higher? And I often get the same blunt answer: the elderly vote but children cannot vote. To which I usually reply: but why don't the elderly vote for the wellbeing of their grandchildren? And why do many other developed countries with comparable living standards have much lower rates of childhood poverty and material deprivation? Does not this evidence tell us something profound and deeply disturbing? Does it not suggest that there is something terribly wrong with our values?

It is vital to have an authoritative and independent institution to speak for the voiceless.

This brings me to my second 'V' – voice:

It is true, of course, that children have no effective political voice: they lack the right to vote. This is why others must speak on their behalf. And this, in my view, is why it is so vital to have an authoritative and independent institution, in the form the Commissioner for Children, to speak cogently, vigorously and in a politically dispassionate way for the voiceless – and, indeed, to encourage and enable children to develop and exercise their own democratic voice.

In Russell Wills, the children of this country have been blessed with a remarkable and forceful voice on their behalf. In the current round of policy reforms, it is vital

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that we retain the office of Children's Commissioner – all the more so given our country's appalling track record with regard to child abuse, neglect and material deprivation.

My third 'V' is vision: what is our vision for our children today and hence for our country in the future? After all, the children of today are the future. The Expert Advisory Group that I co-chaired with Dr Tracey McIntosh for the Commissioner in 2012 recommended that New Zealand embrace a vision of halving our rates of child poverty and material deprivation, thereby reducing them to those of the best performing developed countries. Since our Report was published, Russell has strenuously urged the government to develop a proper strategy and plan to reduce our unacceptably high rates of child poverty.

Hence, it is pleasing and significant that the government, in September last year in New York, embraced the Sustainable Development Goals. The first Goal is to 'end poverty in all its forms everywhere'. One of the sub-goals is 'to reduce at least by half the proportion of men, women and children of all ages living in poverty in all its dimensions according to national definitions'. This goal is to be achieved by 2030.

This political and moral commitment to halving rates of poverty is great news. The bad news is that hardly anyone in New Zealand knows about it, not least because the government never mentions it.

The vision of halving child poverty rates is readily achievable, but it will not be possible without vital reform.

Let me be clear: the vision of halving child poverty rates is readily achievable; it is not a utopian vision. But it will not be possible without my fourth 'V': namely, vital reform.

Why do the countries of northern Europe and Scandinavia have much lower rates of child poverty than New Zealand? The answer is brutally simple: they have better policies – policies which are deliberately designed to minimize poverty and which are reasonably effective in securing this goal. New Zealand has such policies for its elderly; that is why the rates of material deprivation for our elderly are amongst the lowest in the world. But we lack similarly effective policies for our children.

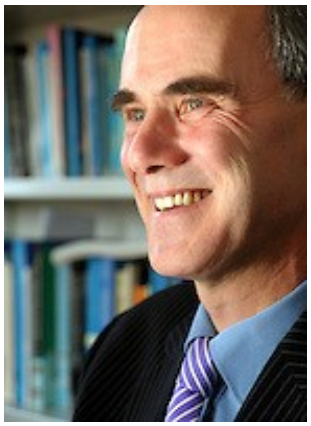
The good news is that policies can be changed. But there must be the political will to do so. And that brings me back to our societal values and our national vision. Do we really value our children? Do we want the very best for them?

Russell, the people of Aoteoroa-New Zealand owe you a huge debt. You have been a tireless champion and powerful voice for our most vulnerable and afflicted citizens. May that voice continue to resonate within the corridors of power and across the land, and may it ultimately move mountains.

Jesus of Nazareth once said:

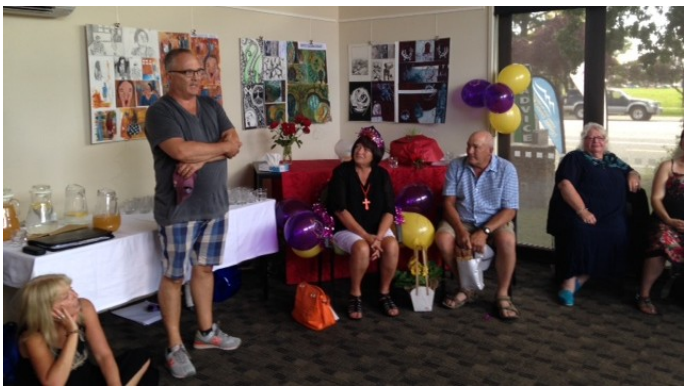
Let the little children come to me, and do not hinder them, for the Kingdom of Heaven belongs to such as these.

I wonder how many people really believe this and, if they did, what they do about it? ■



The author: Jonathan Boston, Professor of Public Policy at Victoria University of Wellington.

Big send-off for a "capable, caring and hardworking" social worker



Judge Flatley speaks on behalf of local Judges at Maire's farewell morning tea.

The social work and youth justice professions have recently said a sad goodbye to Maire Matheson, who has retired from her long-held position as a social worker. Maire was most recently a youth justice social worker in Central Otago, and was paid tribute in a farewell morning tea held in the region. The large turnout—which included CYFS representatives from around the country, local practitioners, police, family and friends—paid tribute to Maire's many years of dedication and hard work. In Judge Flatley's words, it was "a great send off for a very capable, caring and hardworking social worker who will be missed." ■

YOUTH JUSTICE NEWS

Included on this page are extracts from the report 'What Works in Managing Young People who Offend? A Summary of the International Evidence', published by the Ministry of Justice for England and Wales.

Summary

This review was commissioned by the Ministry of Justice for England and Wales and considers international literature concerning the management of young people who have offended. It was produced to inform youth justice policy and practice. The review focuses on the impact and delivery of youth justice supervision, programmes and interventions within the community, secure settings, and during transition into adult justice settings or into mainstream society.

Approach

A Rapid Evidence Assessment (REA) was conducted to assess the international evidence systematically. In line with English and Welsh youth justice sentencing, young people were taken to be 10-17 years old when considering initial intervention, programmes and supervision, and up to 21 years old when considering transitions into the adult criminal justice system and resettlement post release from custody. Evidence was considered from any country where studies were reported in English, and published between 1st January 1990 and 28th February 2014.

This report can be found online at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/498493/what-works-in-managing-young-people-who-offend.pdf

2. Key elements of effective intervention

Summary of findings

International reviews of the rehabilitation evidence found that the most successful interventions to reduce reoffending among young people included a number of elements. The most effective approaches:

- assessed the likelihood or risk of an individual reoffending and, importantly, matched services to that risk level with a focus on those who are assessed as having a higher likelihood of reoffending;
- considered the needs and strengths of the individual and their ability to respond to the intervention;
- were characterised by using a combination of skills training and cognitive behavioural intervention approaches, rather than deploying primarily punitive or surveillance focussed programmes;
- considered the amount and quality of service provided and programme fidelity. The wider offending context, such as family, peers and community issues, should also be taken into account;
- employed a multi-modal design with a broad range of interventions that address a number of offending related risks. Case management and service brokerage can also be important; and
- made sure communication between staff and young people was strengthened through mutual understanding, respect, and fairness.

4. Intervention effectiveness within specific youth justice settings

Summary of findings

The following interventions and approaches, based on international evidence, can be considered at specific stages and contexts within the youth justice rehabilitation setting to reduce reoffending.

- Diversionary approaches may be appropriate for young people who commit low level offences given that some will desist from crime without intervention and drawing these young people into the formal youth justice system may increase their offending.
- Within the community, family based therapeutic interventions that draw on the community and consider wider offender needs can be effective and deliver a positive net return on investment.
- Community based interventions tend to be more effective than custody. Where custody is necessary, consideration should be given in some cases to moving young people to well trained foster carers. Young people in custody are likely to require intensive support to help them to desist from offending.
- Good quality supervision in custody also requires planning for release and resettlement to be an integral part of the sentence. Brokers or advocates who will help guide young people through transition and be available whenever needed are worth considering.
- Prison visitation programmes aimed at young people at risk of offending were not found to reduce offending behaviour; indeed, findings show that they can increase the likelihood of committing crime. Also, military style 'boot camps' run as an alternative to custody were not found to reduce reoffending.

SPECIAL REPORT: Components of effective advocacy in youth proceedings

For the full report, visit:

https://www.barstandardsboard.org.uk/media/1712097/yparfinalreportfinal.pdf

In October 2014, the United Kingdom's Bar Standards Board commissioned a review of advocacy in youth proceedings, in order to address the following two questions:

- *What knowledge, skills and attributes are required by advocates in youth proceedings to work effectively with defendants and witnesses and, in so doing, to promote justice and the public interest?*
- *To what extent do advocates in youth proceedings (and, particularly, barristers and chartered legal executive advocates) currently have the requisite knowledge, skills and attributes to work effectively with defendants and witnesses and, in so doing, to promote justice and the public interest?*

Although the New Zealand system is different to that of the United Kingdom, the findings of the report are of relevance to our Youth Advocates and to the youth justice sector in general. Here, we reproduce an extract from the final report to that review, published by the Institute for Criminal Policy Research in November 2015.

"THREE fundamental components of effective advocacy were identified by this review: first, specialist knowledge; secondly, communication and wider social skills; and, thirdly, professionalism.

There were said to be several different aspects to the specialist knowledge on which an advocate may need to draw over the course of defending or prosecuting any given case. Such knowledge pertained to youth justice matters rather than to knowledge of criminal law. Knowledge of youth justice law was regarded as critically important – reflecting the complexity of this area of law, the fast pace at which it changes, and distinct nature of the sentencing and bail frameworks for children. Many respondents stressed that advocates should possess knowledge and awareness of the backgrounds of children who appear in court, and particularly the developmental, communication and mental health needs that are prevalent within this group. Such knowledge was said to be essential if advocates are to communicate effectively with young defendants and witnesses, and to facilitate their engagement with court proceedings, for example by accessing relevant courtroom provision. The requisite knowledge for effective advocacy was also said to encompass awareness and understanding of the role of the Youth Offending Team and other services within the youth justice system.

Advocates should possess knowledge and awareness of [children's] developmental, communication and mental health needs

For the most of the respondents in this research, effective communication with children was regarded as the basis of good advocacy in youth proceedings. This was perceived to be essential for children to be able to open up to the to their advocate, give instructions, understand what is happening in court and respond to questioning. Good communication skills were highlighted as the starting point for facilitating children's understanding – both when questioning children (including witnesses) during court hearings and during consultations outside the courtroom. Good communication was said to entail the use of "basic language" rather than "legal jargon" and "simple and clear questions", without being patronising. In addition, good communication underpins the development of positive relationships between advocates and their clients, premised upon empathy and trust. Some advocate interviewees emphasised that building rapport is a vital part of working with clients of all ages. However, it was commonly noted that young defendants are often wary of adults due to long-held mistrust of figures of authority. Building trust was therefore said to take more time and patience with young defendants. These various factors combine to mean that, in the eyes of some of our respondents, only advocates who have a genuine interest in working with children are likely to perform well in youth proceedings.

Effective communication with children was regarded as the basis of good advocacy

Young defendants, advocates and other practitioners described various aspects of effective advocacy – particularly, demonstrable commitment, engagement, thorough case preparation and attention to detail – which can be grouped together under the broad heading of "professionalism". Unsurprisingly, the principal determinant of many young defendants' assessments of their advocate was often whether or not he or she had received the "right result" in their eyes. In a more general sense, it was important to young defendants that their advocates appeared confident and committed to the case. In this respect, some young people differentiated good and bad advocacy on the basis of whether the advocate demonstrated passion for the work and did not appear to be doing it simply "for the money". Some advocate and practitioner respondents also perceived commitment to be an essential component of effective advocacy in youth proceedings – arguing that particular effort and patience is required to engage with young people.

Both good and poor practice was evident in what respondents said about the quality of advocacy, within each of the three themes identified by this review as "core components of effective advocacy". Many advocates were praised for the relationships they built with their clients and for their profound commitment to their work; while others were criticised for lack of engagement and lack of knowledge and relevant skills – shortcomings which were said to have serious implications both for court processes and outcomes. ■

SPECIAL REPORT: The use of Parenting Orders in the Youth Court

Phil Dinham, Child Youth and Family

Of late, the question has arisen as to why so few Parenting Orders are being made in the Youth Court, and whether this is cause for concern. Phil Dinham of Child Youth and Family responds.

IN 2010 the CYPF Act was amended to formalise the consideration of parenting education programmes at the youth justice FGC under s 259A. The legislative changes also introduced youth court parenting orders for up to 6 months for the parents of young people who offend, and for young people who are, or are about to be parents themselves – under s 283(ja) of the CYPF Act. Youth Courts can make Parenting Orders under s 283(ja) on receipt of a social work report and plan as detailed in s334 & s335 of the Act. Youth Courts can ask the social worker to consider a parenting order when adjourning for the report and plan. Also, a judge can ask for the plan to be amended to include a parenting order.

In anticipation of demand for parenting orders and programmes, the Fresh Start reforms provided a funding stream (Fresh Start for Young Offenders) to build capacity with NGO providers to deliver up to 700 additional places.

The intent behind the legislation was to provide access to parenting support as one of the underlying causes of the offending. It was envisaged that the need for parenting support would be explored during the convening of and at the youth justice FGC and form part of the resulting FGC plan, whether the FGC was convened following referral from police, or following a Youth Court direction. It was also envisaged that the majority of parenting support would be taken up voluntarily as part of the agreed FGC plan, rather than mandated as a formal court order.

Since 2010 uptake of parenting support has been variable. The figures we collect nationally show that -

2010/11 = 7484 YJ FGCs held - 374 programmes of which 13 were Parenting Orders
2011/12 = 7,284 YJ FGCs held - 524 programmes of which 14 were Parenting Orders
2012/13 = 6,259 YJ FGCs held - 326 programmes of which 3 were Parenting Orders
2013/14 = 5,633 YJ FGCs held - 185 programmes of which 3 were Parenting Orders
2014/15 = 5,318 YJ FGCs held - 125 programmes of which 7 were Parenting Orders

The figures show the use of Fresh Start funded parenting programmes, and youth court parenting orders, falling far faster than the rate of decrease of youth justice FGCs. The apparent low provision of parenting support in YJ FGCs plans is also at odds with other statistics – for example between July 2013 and June 2014 49% of young males, and 59% of young females, referred to a youth justice FGC had a prior substantiated finding of abuse or neglect, which might indicate a need for parenting support or advice.

What's behind the statistics?

1. Why are we using Programmes rather than Orders?

The policy guidance emphasised that where possible, we would seek parenting programmes as either components of FGC plans, or to be part of supervision plans under s 283(k). Parenting orders were to be used where there was parental resistance to voluntary participation in parenting programmes.

Parenting orders were seen by some as discriminating against women

Parenting orders were seen by some as discriminating against women, who are often the primary carer and most likely to attend the FGC or youth court hearing. Any breach or enforcement action would thus fall on the mother, with no obligations on the father.

There was also an apparent reluctance to have a parenting order imposed while a young person was completing an FGC plan, as parental non-compliance with a parenting order could result in the young person being held longer than necessary under judicial monitoring despite completing their part of the plan to allow the parent more time to comply with the order. Failure of a parent to complete a parenting order could also result in the judge not granting a s 282 discharge even if the young person had completed their part of the FGC plan.

A social worker can make proposals in their report and plan, to address parenting concerns. However it seems in practice that unless the youth justice FGC (held prior to the judge adjourning for a social work report and plan) raised the need for parenting support, it is unlikely that the social worker will recommend parenting support. Even when the social work report and plan is considering a Group 3 response – formal court orders – which effectively take a s.282 discharge off the table – then it is hardly ever the case that a parenting order will also be proposed by the report and plan.

Anecdotally we heard that the breach sanction for a parenting order - referral to a care and protection FGC coordinator under s297A(4) - was seen as problematic as other legal avenues could be used to convene a care and protection FGC if at the youth justice FGC, or during Youth Court proceedings, care or protection concerns arise over and above any concerns that could be resolved through parenting programmes. So far, almost six years after the Act was changed, Child, Youth and Family are not aware of any parenting order that has resulted in the breach process being used.

The conclusion must be that parenting orders are rarely sought and never enforced.

2. What about providing parenting education programmes for young people?

Until June 2013 Child, Youth and Family provided for young people in Youth Justice Residences to access a group-based parenting programme. Uptake was low and the programme was modified to provide a more general programme to young people about their personal relationship management. Any young person who offends but is also a parent, can access individualised parenting support but no group programme is currently available.

3. So why are parenting education programmes not used more extensively?

Following a youth justice FGC, the resultant plan should record the fact that the requirement for a parent to attend a parenting education programme was considered, and either agreed as necessary, or agreed as not required. The discussions behind that decision will form part of the FGC record but are not shared other than with those entitled members present at the FGC. Consequently it can be difficult to check whether each youth justice FGC did actively discuss parenting education programmes.

Child, Youth and Family YJ sites were surveyed about parenting and reported that there are a range of reasons for the low take up of Fresh Start parenting programmes. A range of feedback was generated and comments included –

- the unit cost of parenting programmes under Fresh Start was around $700 per course. For most NGO providers, the specifications and unit costs will require a group based programme rather than individual intervention;
- some parents were reluctant to attend groupwork programmes;
- the FGC plans generally focused on the primary carer, in most cases the mother, while fathers were rarely offered parenting education. Most young people will have siblings and child care can be a barrier to attending formal parenting groups, as can travel costs.
- group programmes are generally only available in urban areas requiring parents living rurally to travel significant distances on a regular basis to access and complete the programmes;
- it was reported that NGO providers delayed commencing courses until they had sufficient referrals, by which time the parents waiting longest had lost motivation and failed to take up the place;
- some sites noted that they were able to access other parenting provision with no cost to CYF;
- there was some comment that offering parenting support to the parents or caregivers of adolescents, many of who were on the cusp of leaving home, or were estranged from their birth parents, was considered "too little too late" in terms of having an effect on their offending.

Summary

The policy intent behind the 2010 CYPF Act amendments was to ensure that every youth justice FGC considered the requirement for a parent or young person to attend a parenting education programme. This was to ensure that where the lack of parenting skills, or capacity, were seen as a contributory factor to the offending, support and advice were provided to the parents or primary carers.

While over half Child, Youth and Family youth justice referrals will have a prior substantiated finding of abuse or neglect and there is Fresh Start funding for up to 700 parenting programmes a year; fewer than 150 of over 5,000 youth justice FGCs require parents to attend a Fresh Start parenting programme.

While Child, Youth and Family is aware that other methods and sources of providing parenting education are used as part of FGC plans and as components of Supervision with Activity Orders, the low numbers of parenting programmes funded by the Fresh Start funding appear to indicate that implementation of the policy intent has been less than successful.

There is no yardstick in place to judge whether the current low level of orders either a success or a failure of the policy intent

There is no yardstick in place, nor any "quota" to judge whether the current low level of parenting orders constitutes either a success or failure of the policy intent – forcing reluctant parents to attend parenting education programmes was always envisaged as a last resort option.

Conclusion

A wider review of the provision of parenting support in youth justice would be more relevant than a narrower focus on the issue of low use of parenting orders. There are two more general questions –

- how Youth Justice Co-ordinators and Youth Justice Social Workers can ensure that s 259A and s 283(ja) provisions are followed so that FGC plans, and social work reports and plans at youth court, fully consider the need for parenting education support; and
- whether the currently contracted Fresh Start parenting programmes are flexible enough so that they can be culturally appropriate, locally provided and individualised to meet specific parenting needs whilst also have a clear evidence base.

The implementation of the recommendations of the 2016 Expert Advisory Panel Report on Modernising Child, Youth and Family will provide an opportunity to review how best we provide early, effective support to children and young people most at risk of offending and re-offending. It also provides an opportunity to review how money is invested in programmes that have an evidence base of effectiveness in a New Zealand cultural context. ■

STORIES FROM THE YOUTH JUSTICE SECTOR

Instilling a sense of mana in Taumarunui's youth

A story shared by Donna Carter, CYF Taumarunui Site Manager

There were four young men on the Youth Aid radar in Taumarunui; Taumarunui's worst offenders, nothing had worked. Every meeting that I attended, Truancy, YOTS, Strengthening Families, Social Sector Trials, the names of these four boys were talked of everywhere.

One morning at YOTS there was a suggestion the CYF might have to take these four boys into care. My reaction inside my head was "not on my watch". There had to be something that we could do to offer these boys a service that would make a difference.

The ability to offer a safe and stable placement that the boys would stay in was zero in our town. The history for these boys in terms of their family dynamics was some of the worst that I had come across in my time at CYF. Two boys started inhaling petrol at age 5 and all boys used cannabis daily from the time their eyes opened until they feel asleep again later in the day. Educational engagement was minimal. Offending was to feed their habit. They told tales of fighting over colours "just because." They were also often missing from their homes for days and even weeks on end. Their parents were, in the main, drinkers and drug addicts and all were exposed to or were victims of horrendous domestic violence. All boys had tales of suicide attempts.

With the assistance of funding, a collaborative venture was formed between one NGO, Hinengakau Maatua Whangai, and two community providers, Breakthrough Wellness Centre and Dream Makers Trust.

Jamie Downes from Breakthrough Wellness has had a significant personal journey himself, and he has adapted this to his Weight Loss programme, his Suicide Prevention programme and now his work with challenging youth. Jamie and his whānau took the four boys under their wings, providing them with good old fashioned values and a sense of love and belonging delivered through their Christian values.

The boys started on a 6 week programme that saw them attend the gym at 6.00am each day. The first week, they were all collected. The second week, only two were; the other two boys made it there on their own. In fact, they started turning up a 5.30 am, before the doors hadeven opened.

The Downes whānau programme operates on the vision of 6 birds. This starts with the moa – your past; then moves to the kiwi – your plan; the pukeko – the steps for your plan; the weka – starting to put the plan into action; a bird that sits in the middle of the trees – the plan taking hold and working; the tui – the bird calling to others to see who and what this new person is; and lastly, the eagle – freedom; the ability to soar.

The boys also started working with Mr George Potaka from Dream Maker Trusts in Raetihi. They undertook the 'smashed and stoned' programme, and were mentored in the outdoors using Kaimanawa horses and hunting. This has been instilling in the boys a sense of mana. The boys now have horses of their own and are proud of what they have been able to achieve from working with the animals and providing kai to their whānau.

The boys, in short, have ceased all offending. Their drug use is minimal. The whānau are engaged with the boys and their learning. This is something no service in town including CYF had been able to achieve. One is fully engaged back in Kura education; the other three are in the process of being home schooled by Mrs Downes. The boys are attentive, caring, kind, respectful and fun-loving young men, who are a pleasure to be around.

One boy attended the last Blue Light Camp in Taupo and came away as the top cadet. To go to this camp he had to test drug free— and he did.

The four boys attended the Cactus graduation in Ohakune and those in attendance were impressed with the manners of these young men and the haka that was performed in honour of the graduates—not to mention their ability to eat. The boys are off to the Youth Mentoring conference in Auckland. If possible, they will voice what has worked for them. ■

Father Flanagan's Toughest Customer

By Fulton Oursler
Transcribed by retired Judge Russell Callendar

The following story was first published in a Reader's Digest in 1947. It is our pleasure to republish the story here.

ONE winter night a long-distance call came to that Nebraska village known all over the world as Boys' Town.
"Father Flanagan? This is Sheriff Hosey-from Virginia. Got room for another boy-immediately?"
"Where is he now?"
"In jail. He's a desperate character-robbed a bank, held up three shops with a revolver."
"How old is he?"
"Eight and a half."

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The gaunt, blue-eyed priest stiffened at the telephone.
He's what?"
"Don't let his age fool you. He's all I said he was, and more. Will you take him off our hands?"'

For years the Rev. Edward Joseph Flanagan has been taking unwanted boys off the hands of baffled society: youths of all ages, races, creeds.
"If I can't manage an eight-year-old by this time, I ought to quit," he said. "Bring him on!"

Three days later, Sheriff Hosey and his wife set down their prisoner in Father Flanagan's office—an unnaturally pale boy with a bundle under his arm. He was no higher than the desk; frowzy hair of chocolate brown dangled over the pinched face; sullen brown eyes were half shut beneath long, dark lashes. From one side of his mouth a cigarette drooped at a theatrical angle. "Don't mind the smoking," pleaded the sheriff. "We had to bribe him with cigarettes."

The sheriff's wife laid a long envelope on the desk.
"There's a complete report," she snapped. "And that's not the half of it. This good-for-nothing criminal is not worth helping. It's my personal opinion he ain't even human! Good-bye and good luck-you're going to need it!"

Now the heart of Father Flanagan is warmed by his love of God and man, and especially young ones. Looking upon this patched wraith of childhood, the priest thought that never had he seen such a mixture of the comical and the utterly squalid and tragic.
Waving the newcomer to a chair, Father Flanagan began to read the report. People had forgotten the boy's last name; he was just Eddie. Born in a slum near the Newport News docks, he had lost mother and father in a flu epidemic before he was four. In flats on the water-front he was shunted from one family to another, living like a desperate animal.
Hardship sharpened his cunning and his will. At the age of eight he became the boss of a gang of boys, some nearly twice his age. Coached by older toughs of the neighbourhood, Eddie browbeat them into petty crimes which he planned in detail.

About six months before the law caught up with him, his rule had been challenged by a new member of the gang.
"You never do anything yourself. You're no leader."
"I'll show you," replied Eddie. "I'll do something you wouldn't dare. I'm going to rob a bank."
"Yeah!"

The bank was housed in an old-fashioned building. When most of the clerks were at lunch; Eddie entered unseen and crossed to an unattended slot of the cashier cage. So small that he had to chin himself up, he thrust in one grimy paw, seized a packet of bills and hid them in his jacket. Then he walked out to divide two hundred dollars among his comrades. But the exploit was a flop; the bank concealed the theft and there were no headlines.

"You're only cracking your jaw," the gang jeered. "You found that dough somewhere."
Eddie's answer was to disappear for several days. Someone had sold him a revolver, and he was out in the fields beyond town, practicing marksmanship.

This time the local front pages were full of him. Slouching into a restaurant at a quiet hour, he aimed his gun at the terrified counterman and was handed the day's takings from the cash register. Next he dragged a roll of bills from the pocket of a quaking tailor. His third call was on an old lady who kept a sweet-shop.
"Put that thing down," this grandmother cried, "before you hurt yourself!"
She smacked the gun out of his hand and grabbed him by the hair. Savagely he struggled; he might have killed her, but her screams brought policemen. Now Eddie had wound up in Boys Town.

Putting aside the report, Father Flanagan looked at the villain of the piece.
In the dimmish light Eddie sat unmoving, head lowered, so that it was hard to see much of that sullen face. As the man watched, the child produced a cigarette paper and a pouch of tobacco. One hand, cowboy fashion, he deliberately rolled a cigarette and lit it, thumb-nail to match; he blew a plume of smoke across the desk.
The long eyelashes lifted for a flash, to see how the priest was taking it.
"Eddie," began Flanagan, "you are welcome here. The whole place is run by the fellows, you know. Boy mayor. Boy city council. Boy chief of police."
"Where's the jail?" grunted Eddie.
"We haven't a jail. You are going to take a bath and then get supper. Tomorrow you start school. You and I can become real friends—it's strictly up to you. Some day I hope I can take you to my heart. I know you're a good boy!"

The reply came in one shocking syllable.
About ten o'clock next morning Father Flanagan's office door opened and the new pupil swaggered in. His hair had been cut and neatly combed and he was clean. With an air of great unconcern he tossed on the desk a note from one of the teachers:
"Dear Father Flanagan: We have heard you say a thousand times that there is no such thing as a bad boy. Would you mind telling me what you call this one?"

Back in the classroom Father Flanagan found the atmosphere tense. The teacher described how Eddie had sat quietly in his seat for about an hour; suddenly he began parading up and down the aisle, swearing like a longshoreman and throwing movable objects on the floor, finally pitching an inkwell which landed accurately on a plaster bust of Cicero.

Replacing Eddie in his seat, Father Flanagan apologized:

"It was my fault. I never told him he mustn't throw ink-

STORIES FROM THE YOUTH JUSTICE SECTOR

wells. The laws of Boys Town will, of course, be enforced with him, as with all the rest of us. But he has to learn them first. We must never forget that Eddie is a good boy."
"Like hell I am!" screamed Eddie.

The child made no friends among boys or teachers. And for Father Flanagan he reserved his supreme insult—"a damned praying Christian."
His spare time he spent roaming about stealthily, looking for a chance to run away. He stood aloof in the gymnasium and on baseball and football fields: "Kid stuff!" he muttered. Neither choir nor band could stir him; the farm bored him. And in all that first six months not once a laugh or a tear. Soon the question in Boys Town was whether Father Flanagan had met his match at last.

"Does the little fellow learn anything?" he asked the Sisters. "Somehow he is getting his A B C's," they reported. "In fact he's learning more than he lets on. But he's just eaten up with hate."

This was not the first tough case Father Flanagan had dealt with. One youngster had shot his father, a wife-beater, through the heart. A murderer-but only because the lad loved his mother. When the priest had understood, he had been able to work things out.
There must be something in Eddie, too, that could be worked out.
"I'll have to throw away the book of rules," grumbled Flanagan. "I'm going to try spoiling the little devil-with love!"

Boys and teachers watched the new strategy as if it were a sporting contest, and the home team was Father Flanagan. Upon those weeks and months of planned treats the priest looks back with a reminiscent shudder: the scores of second-rate films they sat through; the hot dogs and hamburgers, sweets, ice-cream and soft drinks that Eddie stuffed inside his puny body.
Yet never once did Eddie give a sign that anything was fun. In summer dawns that smelt of pines and wild clover, he would trudge stolidly down to the lake, but no grunt of excitement came when he landed a trout.

Only once towards the end of that unhappy experiment did man and boy come closer together. At a street crossing in Omaha Eddie was looking in the wrong direction when a van bore down on him; Father Flanagan yanked him out of harm's way. For one instant a light of gratitude flickered in the startled brown eyes, then the dark lashes fell again; he said nothing. Even to the man of faith it began to seem that here was an inherent vileness beyond his reach. Hope had fallen to the lowest possible point when one soft spring morning Eddie appeared in the office, boldly announcing that he wanted to have it out with Father Flanagan. This time the brown eyes were glowing with indignation.

"You been trying to get round me" he began, "but now I'm wise to you. If you was on the level I might have been a sucker, at that. I almost fell for your line. But last night I got to thinking it over and I see the joker in the whole thing--"

There was something terribly earnest and manful in Eddie now; this was not insolence but despair. With a stab of hope the priest noticed for the first time a quiver on the twisted lips.
"Father Flanagan, you're a phoney!"
"You'd better prove that, Eddie—or shut up!"
"Okay! I just kicked a Sister in the shins. Now what do you say?"
"I still say you are a good boy."
"What did I tell you? You keep on saying that lie and you know it's a lie. It can't be true. Don't that prove you're a phoney?"

Dear Heavenly Father, this is his honest logic! How can I answer it? How defend my faith in him—and in You? Because it's now or never with Eddie—God give me the grace to say the right thing.

Father Flanagan cleared his throat.
"Eddie, you're clever enough to know when a thing is really proved. What *is* a good boy? A good boy is an obedient boy. Right?"
"Yeah!"
"Always does what teachers tell him to do?"
"Yeah!"
"Well, that's all you've ever done, Eddie. The only trouble is that you had the wrong teachers—wharf toughs and corner loafers. But you certainly obeyed them. You've done every wrong and rotten thing they taught you to do. If you would only obey the good teachers here in the same way, you'd be just fine!"

Those simple words of unarguable truth were like an exorcism, driving out devils from the room and cleansing the air. At first the tiny human enigma looked dumbfounded. Then came a glisten of sheer, downright relief in the brown eyes, and he edged round the side of the sunlit desk. And with the very same relief Father Flanagan's soul was crying; he held out his arms and the child climbed into them and laid a tearful face against his heart.

THAT was a long time ago. For ten years Eddie remained in Boys Town. Then, well near the top of his class, he left to join the United States Marines. On blood-smeared beaches he won three promotions.
"His chest," boasts Father Flanagan, "is covered with decorations. Nothing strange about that, for he has plenty of courage. But God be praised for something else: he had the love of the men in his outfit—brother to the whole bunch. He is an upstanding Christian character. And still the toughest kid I ever knew!"

Published in The Reader's Digest in 1947

YOUTH JUSTICE RESEARCH AND PUBLICATIONS

STOP PRESS | Short Film: Ngā Kōti Rangatahi o Aotearoa

We are very excited to announce that the short film Ngā Kōti Rangatahi o Aotearoa is now available to view online on Vimeo.

Commissioned by the Office of the Principal Youth Court Judge and produced by Julian Arahanga of Awa Films Ltd ("Songs from the Inside"), this 7-minute film takes the viewer inside both the Rangatahi Courts and the Pasifika Court, and features interviews with Judges, kuia and kaumātua, Police Youth Aid, youth advocates, and the Rangatahi themselves.

The film is available at the following link:
https://vimeo.com/168848118

UPCOMING: A longer version of the film is also being produced. Details will be announced in the upcoming weeks.

This project would not have been possible without the support of the following people and organisations: Ministry of Justice, Te Puni Kōkiri, New Zealand Police, Ministry of Social Development, Ministry for Pacific Peoples, the three marae (Wairaka, Hoani Waititi and Te Herenga Waka), the Māngere Pasifika Youth Court and Naomi-Blaire Ngaronoa (Judge Becroft's Executive Assistant). Tēnā koutou.

NEW ZEALAND

Research using administrative data to support the work of the Expert Panel on Modernising Child, Youth and Family
Author(s): Robert Templeton and others
Available: Treasury analytical paper 16/03 May 2016
Abstract: This paper sets out the findings from three studies: (1) Outcomes for children and young people who have contact with Child, Youth and Family; (2) Young women with a history of contact with Child, Youth and Family during childhood have higher rates of early parenting and subsequent contact with child protection as young parents; (3) Abuse and neglect is associated with an increased risk of mortality during teenage years – which were undertaken to support the work of the Panel. The studies provide new insights into the extent of contact with Child, Youth and Family, outcomes for children and young people who have contact with the agency and the associated long-term fiscal costs.

AUSTRALIA

Unequal brains: Disability Discrimination Laws and Children with Challenging Behaviour
Author: Karen O'Connell**Available:** (2016) 24 (1) Medical Law Review 76
Abstract: "At a time when brain-based explanations of behaviour are proliferating, how will law respond to the-badly behaved child? In Australia, children and youth with challenging behaviours such as aggression, swearing, or impulsivity are increasingly understood as having a behavioural disability and so may be afforded the protections of discrimination law. A brain-based approach to challenging behaviour also offers a seemingly neutral framework that de-stigmatises a child's 'bad' behaviour, making it a biological or medical issue rather than a failure of discipline or temperament. Yet this 'brain-based' framework is not as neutral as it appears. How law regulates the brain-based subject depends on how law conceptualises the brain. This article examines two competing approaches to the brain in law: a structural, deterministic model and a 'plastic', flexible model. Each of these impacts differently on disabled and abled identity and consequently on discrimination law and equality rights. Using examples from Australian discrimination lawm this article argues that as new brain-based models of identity develop, existing inequalities based on race, gender, and disability are imported, and new forms of stigma emerge. In the neurological age, not all brains are created equal.

UNITED KINGDOM

What works in managing young people who offend?
Authors: Joanna Adler, Sarah Edwards, Mia Scally, Dorothy Gill, Michael Puniskis, Anna Gekoski and Miranda Horvath
Available: Ministry of Justice (UK) Analytical Series 2016. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/498493/what-works-in-managing-young-people-who-offend.pdf
Abstract: "This review was commissioned by the Ministry of Justice and considers international literature concerning the management of young people who have offended. It was produced to inform youth justice policy and practice. The review focuses on the impact and delivery of youth justice supervision, programmes and interventions within the community, secure settings, and during transition into adult justice settings or into mainstream society. A Rapid Evidence Assessment (REA) was conducted to assess the international evidence systematically. Evidence was considered from any country where studies were reported in English, and published between 1 January 1990 & 28 February 2014.

Popularism and Punishment or Rights and Rehabilitation? Electoral Discourse and Structural Policy Narratives on Youth Justice: Westminster Elections, 1964–2010
Author: Paul Chaney
Available: Youth Justice April 2015 vol. 15 no. 1 23-41
Abstract: This study explores the formative origins of youth justice policy and the discursive process of mandate-seeking in party manifestos in Westminster elections. Analysis of issue salience and policy framing reveals: party politicization, a significant increase in issue salience from the 1990s onwards, and a shifting structural policy narrative with inherent contestation and contradictions. The past decade has seen some attempts to revisit pre-1970s welfarist approaches following an

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extended emphasis on criminalization, incarceration and punishment. This discursive shift has presaged an impressive reduction in levels of incarceration and numbers sentenced, yet international and historical comparative data suggest party programmes need to place continuing emphasis on diversion if full compatibility with the United Nations Convention on the Rights of the Child is to be secured.

Breaking Down Barriers with the Usual Suspects: Findings from a Research-informed Intervention with Police, Young People and Residents in the West of Scotland

Authors: Ross Deuchar, Johanne Miller, Mark Barrow
Available: Youth Justice April 2015 vol. 15 no. 1 57-75
Abstract: This article draws upon international research evidence that suggests that cyclical stereotyping can emerge among young people, the police and local residents in communities. The article examines theresidents in communities. The article examines the impact of a research-informed local intervention in one of the most deprived communities in Scotland, where local perspectives were drawn upon as the basis for designing integration workshops. Pre- and post- interviews were conducted with young male participants, residents, police officers and youth workers. Findings suggest that the workshops stimulated social capital and fledgling attempts to generate collective efficacy. The authors draw upon the findings to make recommendations for policy, practice and research.

UNITED STATES

Holistic Representation: A Randomised Polit Study of Wraparound Servicse for First-time Juvenile Offenders to Improve Functioning, Decrease Motions for Review, and Lower Recidivism

Authors: Susan Ainsley McCarter
Available: (2016) 54(2) Family Court Review 250
Abstract: Mental health diagnoses, substance abuse issues, and school problems are often cited as contributors to adolescents' involvement with the juvenile justice system. Yet, few youth receive assessment, evaluation, or intervention prior to their involvement with the juvenile courts. This pilot study evaluated whether providing a randomized trial of wraparound forensic social work services in addition to court-appointed legal services would improve functioning, decrease motions for review, and lower recidivism for first-time juvenile offenders. Findings indicate statistically significant improvement for youth receiving wraparound services on six out of eight measures. A case study example is provided and implications for service provision are explored.

Moving Beyond the Punitive Legacy: Taking Stock of Persistent Problems in Juvenile Justice

Authors: Sonya Goshe
Available: Youth Justice April 2015 vol. 15 no. 1 42-56
Abstract: As the US reins in the punitive excesses in juvenile justice with encouraging changes, it may be tempting to herald a new era of progressive reform. This article contends that such optimism may be premature, and identifies three persistent problems within the US juvenile justice system, which left unexamined, promise to perpetuate a 'punitive legacy' that will impede progressive change. The ideology of 'callous self-sufficiency', ongoing neglect of youth welfare and human rights, and the logic of risk management and cost-effectiveness each encourage harmful practices, and they work individually and collectively to create a climate inhospitable to lasting progressive transformation.

Changing Juvenile Justice Policy in Response to the US Supreme Court: Implementing Miller v. Alabama

Authors: Alesa Liles and Stacy C. Moak
Available: Youth Justice April 2015 vol. 15 no. 1 76-92
Abstract: In the case of Miller v. Alabama, the US Supreme Court held that mandatory life without parole sentences for juveniles constituted a violation of the Eighth Amendment provision against cruel and unusual punishment. This case, along with other recently decided cases, appears to mark a shift in policy away from adultification of juveniles and toward a more rehabilitative philosophy. This article contains an analysis of three Supreme Court holdings, a review of Supreme Court rationale in reaching these decisions, and an analysis of the legislative changes that have occurred since Miller was decided.

Naming Child Defendants: In the Public Interest?

Author: Nigel Stone
Available: Youth Justice April 2015 vol. 15 no. 1 93-103
Abstract: "Any principled youth justice system (YJS) has to resolve the extent to which it will afford protection to children and young persons from being publicly identified in criminal proceedings against them (and, also, of course, to minors who feature in such proceedings in other capacities, principally as victims and/or witnesses). In other words, how should the YJS resolve the tension between the desirability of maintaining the openness and reporting of criminal justice and of promoting the best interests of the child?"

SPAIN

Impact of Type of Intervention on Youth Reoffending: Are Gender and Risk Level Involved?

Authors: P Jara, A García-Gomis & L Villanueva
Available: (2016) Psychiatry, Psychology and Law, 23:2, 215-223
Abstract: The objective of this study was to analyse the impact of the type of intervention on youth reoffending. The possible influence that the offender's gender and level of risk could have on this relationship was also explored. Juvenile offenders from four different types of educational interventions participated in the study. ■